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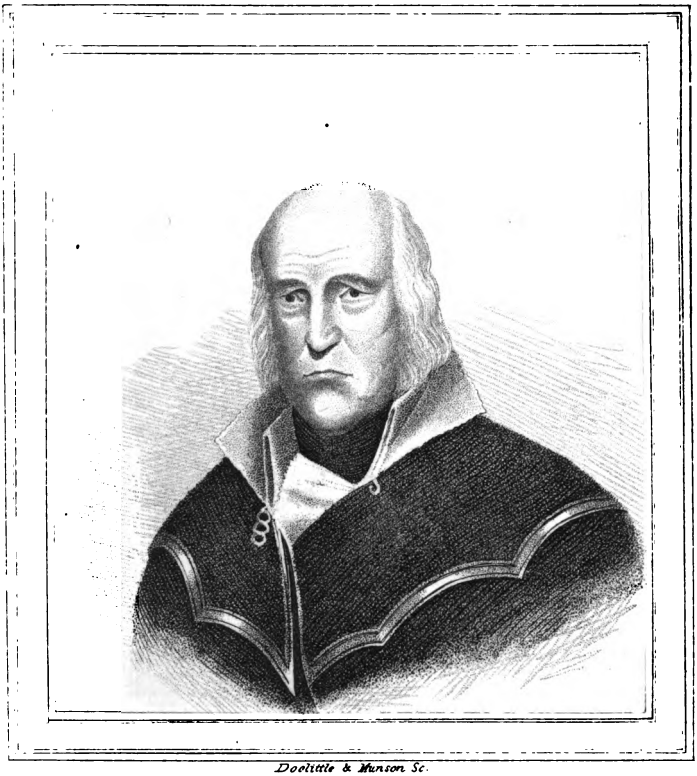

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GEN. GEORGE ROGERS CLARK.

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A HISTORY

OF THE

COMMONWEALTH

OF

KENTUCKY.

BY MANN BUTLER, A. M.

LOUISVILLE, KY.:
PUBLISHED BY WILCOX, DICKERMAN AND CO.
PRINTED BY J. A. JAMES, CINCINNATI, OHIO.
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DEDICATION,

TO

GENERAL WILLIAM CLARK,

OF THE

STATE OF MISSOURI.

SIR:

Among the numerous friends whom the undertaking of the History of Kentucky has procured for me, I know of no one who has conferred such signal obligations upon me, as yourself. The papers of your illustrious brother, George Rogers Clark, so liberally placed by you in my hands, have shed most curious and interesting lights upon the affairs of the western country; and particularly of Kentucky. These could have been procured from no other source.

To whom then, can I so well dedicate this History, as to yourself, who have so faithfully preserved some of the most precious memorials of our history, and have so kindly contributed them for the public information? Were this not the case, who is so properly the representative of the pre-eminent founder of Kentucky, and the successful negotiator for its Virginia acknowledgement, as his only surviving brother?

After yourself, allow me to associate your ancient friend in arms, General William H. Harrison, as one to whom the author is next most deeply indebted, for interesting illustrations of the early military movements of your common commander, General Wayne, as well as for the elucidation of some of the obscure vicissitudes of Indian history.

Be pleased then, to accept the dedication of this work, as a testimonial of my high and unfeigned sense of the obligations conferred upon the great community of the west, much more than on my humble self, in your generous co-operation with my historical labors. In the interim I have the honor to remain

Your obliged friend,

MANN BUTLER.

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CONTENTS.

CHAPTER I.

Earliest condition of Kentucky—Iroquois, or Mohawks, known in 1603—Early seats—Progress to the Mississippi and the Illinois—Appeal to the Colonial Commissioners—General Braddock's talk—Treaties with the English—Great treaty of 1768—Opinion of Supreme Court on Indian title—Opinions of General Harrison—Treaties of 1774—1775—1785—1795 and 1818. [page 1.

CHAPTER II.

Policy of the British Government—Proclamation of 1763—Violations of it—Visit of Dr. Walker in 1747—Name the Shawanee river, Cumberland—Visit of John Finley—of Daniel Boone—Long hunters—Visit of Capt. Thomas Bullitt and McAfees—Surveys of Louisville—Simon Kenton—Burning of Hendricks—Adventures of the McAfees—James Harrod settles Harrodsburg—Battle of Point Pleasant—Treaty of 1774—Treaty of 1775—Settlement of Boonesborough and St. Asaphs—Indian method of siege. [page 17.

CHAPTER III.

First visit of Clark to Kentucky—Visits Harrodstown—Chosen a delegate to the Virginia Legislature with Gabriel John Jones—Calls on Governor Henry—Receives gunpowder for Kentucky—Procures the creation of Kentucky county—Brings gunpowder from Fort Pitt—Conceals it on the banks of Limestone creek—Blackfish attacks Harrodstown—Singular escape of Ray—Plans approved by Governor and Council—Spies in Illinois—Arrives at the Falls of Ohio—Eclipse of the Sun—Passes the Falls—Reaches Kaskaskia—Surprises the town—Takes Cahokia. [page 35

CHAPTER IV.

Plan against St. Vincents—Thanks of Virginia—St. Vincents revolts from the British—M. Girault—Illinois county—Negotiations with New Orleans—Indian negotiations. [page 58.

CHAPTER V.

Recapture of St. Vincents by the British—Plans against Americans—French volunteers—March to St. Vincents—Capture—Return to Kaskaskia. [page 79.

CHAPTER VI.

First Court of Kentucky—Its officers—First Colonel—Siege of St. Asaphs, or Logan's Station—British Proclamations—Capture of Boone—Siege of Boonesborough—Land Law—Its Commissioners. [page 88.

CHAPTER VII.

Colonel David Rogers' Expedition to New Orleans—Defeat—Captain Benham—Colonel Bowman's Expedition—Colonel Byrd's Expedition up Licking—General George Rogers Clark's march from Fort Jefferson—Shuts up the Land office at Harrodsburg—Expedition against Pickaway. [page 102.

CHAPTER VIII.

Kentucky county divided into Lincoln, Fayette and Jefferson—Erection of Fort Jefferson on the Mississippi—Spanish and French intrigues at Paris against the western boundary of the United States—McKee and Girty—Attack on Bryant's Station—Battle of the Blue Licks—Expedition of General Clark to the Chilicothes in 1782—Early manners and state of the arts in Kentucky. [page 118.

CHAPTER IX.

Land Titles—Attempts to sever Kentucky from the United States—John Jay resists them—Supreme District Court established—James Wilkinson—Commercial Association in Philadelphia—Settlement of Washington, in Mason county—Indian depredations—First Convention—Virginia agrees to a separation of Kentucky—Clark's unfortunate expedition in 1786—Colonel Logan's expedition. [page 137

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CHAPTER X.

Earliest attempts at Navigating the Mississippi, by Americans---Colonels R. Taylor and Linn---Negotiations between Jay and Gardoqui---Discontents at Pittsburgh, and in Kentucky---Trade of Wilkinson with New Orleans---Suspicions of his fidelity---First Newspaper in Kentucky. Constitution of the United States. [page 154.

CHAPTER XI.

Don Gardoqui's propositions to Mr. John Brown---Apology for Kentucky Statesmen---Court and Country parties in Convention---Wilkinson's memorial to the Governor of Louisiana---New Government of the United States---General Washington's letter to Colonel Thomas Marshall---Transylvania---Indian depredations. [page 170.

CHAPTER XII.

Gen. Harmar's Campaign---Eighth Convention of the District---Separation from Virginia agreed upon---Col. Hardin's battles---Captain Hubbel's defence against the Indians---Gen. Scott's Expedition---Col. Wilkinson's Expedition---Gen. St. Clair---Board of War in Kentucky---St. Clair's defeat---Pretended retaliation by Gen. Scott. [page 190.

CHAPTER XIII.

Convention of 1792---George Nicholas---First Constitution---Boundaries---First officers of Government---Compensation---Intrigues of Genet in Kentucky---Remonstrances of Gen. Washington with Gov. Shelby---French attachments in Kentucky. [page 207.

CHAPTER XIV.

Wayne's Campaign of 1794---Indian peace of Greenville---British Treaty of 1794---Spanish Treaty of 1795---Spanish Negotiation with Judge Sebastian in 1795 and 1797---First conflict between the court of Appeals and the Legislature. [page 235

CHAPTER XV.

Land Laws of Kentucky—Dissatisfaction with the Constitution of 1792—Gov. Garrard—John Adams, President of the United States—Occupying claimant law and controversy—Seven years' limitation law. [page 258

CHAPTER XVI

Convention---Emancipation of Slaves—Henry Clay—Penitentiary Code—Alien and Sedition Laws—Nullification Resolutions of Kentucky, in 1798-1799—Abjuration of this doctrine in 1833—Constitution of 1800---State of Legislation---Trade---Election of Mr. Jefferson as President of the United States---Judiciary Repeal---Repeal of the Internal Taxes---Insurance Company. [page 280.

CHAPTER XVII.

Convention of 1799---Essential alterations of the old Constitution---New Constitution—Spirit of the Laws from Marshall---State of the Kentucky River---New Government of Kentucky---Changes in the state of society---Commercial difficulties---Election of President Jefferson---Joy of Kentucky---Repeal of the Circuit Courts of the United States, and of the internal taxes---Insurance Company---Circuit court system. [page 290.

CHAPTER XVIII.

Suspension of Deposite at New Orleans---Cession of Louisiana to France---Louisiana Negotiation---Cession to the United States---Newspaper Reports of Adjudications in the Court of Appeals---Second Election of President Jefferson---Colonel Burr---Spanish Difficulties on the Sabine---Return of Burr to the West---Trials---Apprehension---Sebastian's Spanish Pension---Judge Innes---President Madison---Governor Scott---Foreign Depredations---Embargo---Replevy---Battle of Tippecanoe---Death of Davies. [page 303.

CHAPTER XIX.

Second term of Governor Shelby---Petition of Daniel Boone—War with Great Britain—First detachment of Kentucky volunteers---Surrender of Detroit—Kentucky Brevet to General Harrison---Indian siege of fort Wayne—Description of fort Wayne---Expedition against the Indian towns---General Winchester appointed to command the North Western army---Nature of the country and the plan of the campaign---Expedition of General Hopkins—Expedition of Colonel Russell. [page 339

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PREFACE

The first and most important inquiry respecting any history of social transactions is, its impartial truth. In order to answer this question, two others present themselves for examination. First, what have been the opportunities of accurate information enjoyed by the author? and secondly, how faithfully has he availed himself of his opportunities? The latter enquiry must be left to every reader; the author's protestations neither shall, nor ought to interfere with the answer. To the former, he will reply most unreservedly.

The author has been no inattentive observer of public events in Kentucky, from his migration to the State in 1806; nor has he been destitute of intercourse with public characters. His curiosity, he may add, his heart, was early engaged in the story of Kentucky heroism, hardship, and enterprise. Nor during twenty-eight years' residence in the bosom of the State, has he felt his interest lessen in the fame and the fortunes of his adopted commonwealth. Still the author places the claims of his history to the public attention on a basis higher, than any personal intercourse he may have enjoyed, at the late period of his removal to the west. It is on a body of private papers belonging to some of the principal actors in Kentucky history. These have come into his possession from numerous sources in the most cheering and friendly manner.

In the first place are the papers of Gen. George Rogers Clark; these contain a memoir by the great western hero, of his public services, from 1775 to 1779. These periods embrace the most interesting epochs; the papers also include an interesting correspondence with Patrick Henry and Jefferson, the early and distinguished Governors of Virginia, as with many military officers in the western country. These documents are now, after more than the lapse of half a century, for the first time submitted to the public.

To the McAfee papers, preserved by Gen. Robert B. McAfee, the author has had full access. They form a part of the records of Providence church, the first established in Kentucky; and embrace the adventures of that enterprising and bold family of men from 1773 to the final settlement of the family in peace and in the plenty of Kentucky.

In addition to these almost untouched mines of western history, and memorials of Kentucky story, the author has, by the liberality of Colonel Charles S. Todd, John J. Crittenden, and Nathaniel Hart, Esqrs., been favored with the Shelby, Innes, and Floyd papers. Messrs. Thomas and Edmund Rogers, H. Marshall, Esq., judges Rowan, Underwood, and Pirtle, Hon. H. Clay, and Jas. Guthrie, Dr. D. Drake, of Cincinnati, Messrs. John and James Brown, and Gov. Pope, have all most freely and kindly contributed every thing in their power. From

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Gen. James Ray of Mercer county, a living chronicle himself, Captain Gaines, of Woodford, and Colonel Vigo, of Vincennes, has been derived most interesting matter. From Gen. William H. Harrison, information essential to a critical estimation of Indian traditions, as well as elucidating the decisive campaigns of General Wayne, has likewise been received. To the Hon. Richard M. Johnson, the public are indebted for a copy of the treaty of fort Stanwix, of 1768. This treaty forms the corner-stone of our conventional relations with the Indians; it conveyed the first Indian cession of the soil of Kentucky, as far south as the Tennessee, Hogotege, or Cherokee river. It has been procured from a work in the library of Congress, and is annexed in full, as a part of the appendix.

In fine, the author may honestly say, and it has been one of the greatest consolations of his labors, (not a little embarrassing in a country destitute of historical repositories,) that he has been favored with the confidence and correspondence of all the parties, into which the ardent people of Kentucky have been so keenly divided. He tenders to them all, his sincere and profound acknowledgements of obligations conferred not in consideration of his humble pretensions, but of the pervading interest they have felt in the history of the State.

It may be interesting to collect into one view, the printed authorities on western history. The earliest printed account bearing on the history of the west, is the work* of Lewis Hennepin, who in 1680, speaks of a tribe of Indians whom the Illinois called the "Oudebasche," and records the descent of the Mississippi, by Monsieur De la Salle, in the same year, re-published at London in 1698. In another place, in 1682, he says, "the Ouabache is full as large as the Mesachasipi."

After the French explorations, comes the "history of the Five Nations, by Cadwallader Colden, Esq., one of his Majesty's Counsel, and Surveyor General of New York." The only edition to which the author has had access, is the property of N. M. Hentz, Esq., of Cincinnati, published at London in 1750. It embraces the history of this remarkable confederacy, from 1603, to the treaty of Lancaster, Pennsylvania, in 1746. It is much less interesting than the author supposed it to be, from the use of it in the memorial of Dr. Franklin to the King in Council, which is contained in the article, 'Ohio Settlement,' in the fourth volume of his works. The journal† of Major Washington's mission up the Alleghany in 1753, and that of Colonel Croghan's descent of the Ohio, in 1765, next present themselves in point of curiosity, and superior in authenticity and copiousness of detail. There is also a "journal by Patrick Kennedy, giving an account of an expedition undertaken by himself and several coureurs des bois in the year 1773, from Kaskaskia village, to the head waters of the Illinois river." It is solely topographical, and is to be found annexed to an edition of "Imlay's America, London, 1797." The memoir of Boone, dictated to John Filson in 1784, but not published till 1793, at New York, and the glittering letters of

* Notes of Dr. D. Drake, obligingly communicated to the author

† Marshall's Washington, Appendix, vol. 1.

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Imlay annexed to the topographical description of the second author, comprise the earliest publications connected with western history.

To these, succeeded the history of Kentucky, by Humphrey Marshall, Esq., in one volume, in 1812, and which was enlarged to two volumes in 1824. This work has formed the substratum of the author's authority for the current of ordinary events; not without considerable, and as it is believed, important additions. In the complexion of many events, as well as the character of most of the early statesmen of Kentucky, this work differs from that of Mr. Marshall, wide as the poles. The public must determine between him and the author. Mr. Marshall enjoyed opportunities of cotemporary intercourse and observation, which the author freely acknowledges have been unrivalled. Yet while sagacity and orginal information are fully and sincerely accorded to the primitive historian of Kentucky, the author's solemn convictions of historical duty extort his protest against the justice and impartiality of the representations of his competitors in public life. The author painfully feels the compulsion of making this declaration; much as he respects the talents and public services of Mr. Marshall, now silvered with venerable age. Yet he owes it to himself, he owes it to that posterity, who may feel curious to investigate the conduct of their ancestors, to declare, as he most solemnly does, his conviction that every man and party of men, who came into collision with Mr. Marshall or his friends, in the exciting and exasperating scenes of Kentucky story, have been essentially and profoundly misrepresented by him, however unintentionally, and insensibly it may have been done. The contentions between this gentleman and his competitors for public honors, have been too fierce to admit of justice to the character of either, in each others' representations. These enmities have transformed his history into a *border feud*, recorded with all the embittered feelings of a chieftain of the marches. Yet his picturesque portraits of the pioneers of Kentucky, distinct from party influences, have ever given the author the utmost delight.

But to have been opposed to Mr. H. Marshall in the political struggles of Kentucky, seems to have entailed on the actors, a sentence of conspiracy, and every dishonorable treachery. Our Shelby, Innes, Wilkinson, Messrs. John and James Brown, Nicholas, Murray, Thomas Todd, and John Breckenridge, have been thus unjustly denounced by Mr. Marshall. The author of this work, appeals from this sentence of an ancient antagonist, to a generation which has arisen, free in a great degree, from the excitements of the times in question. Whether he has caught an opposite impulse, he cheerfully submits to the verdict of his countrymen.

The author cannot conclude this preface, without apprising the reader of a most injurious mutilation of the despatch of General Wayne, to the President of the United States, announcing the important victory over the Indians at the Rapids of the Maumee, on the 20th of August, 1794. This mutilation consists in omitting five important passages, substituting and in-

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terpolating many words. The pregnant paragraph omitted, which has led Mr. Marshall as well as the author, into reflections injurious to the memory of the gallant Wayne, is as follows, "The bravery and conduct of every officer belonging to the army, from the Generals down to the Ensigns, merit my highest approbation. There were however, some, whose rank and situation placed their conduct in a very conspicuous point of view, and which I observed with pleasure, and the most lively gratitude: among whom I must beg leave to mention, Brigadier General Wilkinson and Colonel Hamtramck, the commandants of the right and left wings of the legion, whose brave example inspired the troops; to these I must add the names of my faithful and gallant aids de camp, Captains De Butts and T. Lewis, and Lieutenant Harrison, who, with the Adjutant General, Major Mills, rendered the most essential service by communicating my orders in every direction, and by their conduct and bravery exciting the troops to press for victory." Thus, so far from not "distinguishing Wilkinson," or "ungenerously omitting him," as mentioned by the author, General Wayne mentions all his gallant officers, Hamtramck, Captains De Butts, T. Lewis, Lieutenant W. H. Harrison, and the Adjutant General, Major Mills.

The sources of this mutilation, the author cannot trace; his own copy of the despatch is contained in a collection of public documents entitled "Indian wars," compiled by Metcalf;* another copy to which he has had access, is contained in a work entitled "History of the discovery of America, &c., by Henry Trumbull," published at Boston, the native city of Major Mills, by Stephen Sewell, 1819. The copy right taken out is dated in 1811. The above extract is from the Casket of 1830, published with the approbation of Isaac Wayne, Esq., the son of the General; and enriched with many original papers. It is too important to omit, that General Wayne had positive authority from President Washington, to attack and demolish the British fort of Miamis. But on reconnoitering it closely, and discovering its strength, added to his own weakness in artillery, the General, with a prudence not always accorded him, most judiciously declined an attack.

In this daring reconnoiter, the General was near falling a victim to his gallantry. He had rode within eighty yards of the fort, accompanied by his aid, Lieutenant William H. Harrison, and within point blank shot of its guns, when a considerable disturbance was perceived on the platform of the parapet. The intelligence of a deserter the next day explained the whole affair. It appeared that a Captain of marines, who happened to be in the garrison when General Wayne made his approach, resented it so highly, that he immediately seized a port fire, and was going to apply it to the gun. At this moment Major Campbell, the commandant, drew his

* Dr. Metcalf, it is believed, now of New York.

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sword and threatened to cut the Captain down instantly, if he did not desist; he then ordered him to be arrested, and addressed the officer-like note to General Wayne, mentioned in the text. This high minded forbearance, in all probability, saved the life of General Wayne, with his suite, and possibly the peace of the United States.

In conclusion, the author will only add that, any errors of omission or commission, (which he is confident he must have made,) that may be pointed out to his conviction shall be faithfully attended to. Should the public reception justify a continuation of the work to recent times, the author will readily prosecute it to the utmost of his limited powers. The facilities granted by the legislature, in giving him the free use of the archives of the State, will give him additional sources of authentic and minute information.

Several articles referred to as in the Appendix, have been unavoidably excluded by the size of the volume. They shall appear in another volume, should the public call for its production.

LOUISVILLE, *April* 24, 1834.

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HISTORY OF KENTUCKY.

CHAPTER I.

INTRODUCTION.

Earliest condition of Kentucky—Iroquois, or Mohawks, known in 1603—Early seats—Progress to the Mississippi and the Illinois—Appeal to the Colonial Commissioners—General Braddock's talk—Treaties with the English—Great treaty of 1768—Opinion of Supreme Court on Indian title—Opinions of General Harrison—Treaties of 1774—1775—1785—1795 and 1818

That part of the United States, now so proudly intertwined with their history, as the State of Kentucky, has successively been the theatre, and the prize, of military contention, from the earliest glimmerings of Indian tradition, to the Virginia conquest. This statement is drawn from the most authentic memorials of colonial history. The *French historians declare that when they settled in Canada in 1603, the Iroquois as they were termed by the French, but who were more familiarly known to the English by the name of Mohawks, lived on the St. Lawrence, where Montreal is now built; above the mouth of the Iroquois river, now called Sorrel, and on lakes Sacrament, or George, and Iroquois, or, Lake Champlain, as it is better known. This being the earliest account, any Europeans have of these Indians, the country just described may well be considered as their earliest seats. The geographical names indeed, confirm the ascendency of these tribes, in the region assigned to their dominion. From these territories, the Mohawks extended their conquests on both sides of the St. Lawrence, above Quebec, and on both sides of the lakes Ontario,

* Present state of North America, Dodsley, 1755, p. 14, 18, 20. Communicated by the politeness of Isaac Newhall, Esq., of Salem, Massachusetts, from the Athenæum Rooms in that city, derived from Colden's Five nations, and confirmed by this latter work.

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Erie and Huron. In this career of conquest, with a magnanimity and sagacious spirit worthy of the ancient Romans, and superior to all their cotemporary tribes, they successively incorporated the victims of their arms, with their own confederacy. Under this comprehensive policy, some of their greatest sachems are said to have sprung from conquered but conciliated confederates.

In 1672 these tribes are represented as having conquered the Oillinois or Illinois, residing on the Illinois river; and they are likewise at the same time, said to have conquered and incorporated the Satanas, the Chawanons or Shawanons, whom they had formerly driven from the lakes. To these conquests, they are said by the same high authority, to have added in 1685, that of the Twightwees, as they are called in the Journal of Major Washington to Gov. Dinwiddie, of Virginia. These tribes, are at this day, more generally known as the Miamis, and they lived on the river St. Jerome, as the Wabash was first called by the French. About the same time, the Mohawks carried their victorious "arms to the Illinois and Mississippi rivers westward, and to Georgia southward." *About 1711, they incorporated the Tuscaroras, when driven from Carolina, who continue at this day, to constitute a part of this once memorable confederacy; forming the sixth nation, and thus changing the name of their union, from the Five Nations, to that of the Six. The rise and progress of these most remarkable tribes, have worthily employed the pens of several historians, both French and English; they even seduced the mind of De Witt Clinton, from the cares of the great State of New York, to investigate the history of her most ancient and faithful allies. To this summary, other authorities may well be added, on a point, so vital to the early history of Kentucky, and of Western America. This becomes more necessary, since the connexion of these tribes with the history of Kentucky, has escaped the notice of all our recent writers. Even the eminent biographer of our illustrious Washington, seems to have neglected these annals, in their relations to our colonial history. Yet, it could

* Thatcher's Lives of the Indians, p 39.

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not be from any dubious or unimportant character, which is attached to them, since they are derived from the highest colonial authorities, and embrace the treaty history of Western America. The tribes in question, says Governor Pownal in his "Administration of the British Colonies," about 1664, carried their arms, as far south as Carolina, and as far west as the Mississippi, over a vast country, which extended twelve hundred miles in length, and about six hundred in breadth; where they destroyed whole nations, of whom there are no accounts remaining among the English. "The rights of these tribes," says the same respectable authority, "to the hunting lands of Ohio, (meaning the river of that name) may be fairly proved by the conquest they made in subduing the Shavanoes, Delawares, Twictwees, and Oillinois, as they stood possessed thereof, at the peace of Ryswick in 1697." In further confirmation of this Indian title, it must be mentioned, that Lewis Evans, a gentleman whom Dr. Franklin compliments, as possessed "of great American knowledge," represents in his map of the middle colonies of Great Britian on this continent, the country on the south-easterly side of the Ohio river, as the hunting lands of the Six nations. In his analysis to his map, he expressly says, * "that the Shawanese who were formerly one of the most considerable nations of these parts of America, whose seat extended from Kentucke, south-westward to the Mississippi, have been subdued by the confederates, (or Six Nations) and the country since become their property."

This chain of testimony is corroborated by the statement of the Six Nations to the commissioners of the provinces of Pennsylvania, Virginia, and Maryland, at an Indian council held with them in 1744. When at this meeting, the Indian chiefs were called upon by the colonial commissioners "to tell what nations of Indians they had conquered lands from in Virginia, and to receive satisfaction for such lands, as they had a right to;" they are said by Dr. Franklin to have made this reply:

* Franklin's works, vol. 4, 271, and observations on the conduct of the French, dedicated to Wm. Shirley, Governor of the provinces of Massachusetts Bay, Boston, 1755; p. 4.

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"All the world knows, that we conquered the several nations living on the Suquehannah, Cohongoranto, (now Potomack) and back of the Great Mountains in Virginia;" "we conquered the nations residing there, and that land, if the Virginians ever get a good right to it, it must be by us."

These tribes had previously, as early as 1701, placed themselves under the protection and government of Great Britain. In their deed, or treaty of the 4th of September, 1726, they confirmed this disposition of their country. Calculating implicitly on this acknowledgment, General Braddock, when, in 1755, he came over to command one of the military expeditions, directed against the French intruders upon the very Ohio lands in question, issued suitable instructions to Sir William Johnson. This gentleman was the celebrated Indian agent, of the British government, among the Mohawks. By these directions he was required to call the Five Nations together to lay before them the above grant to the King in 1726; by which they had placed all their hunting lands under his majesty's protectection, to be "*guarrantied to them and to their use.*" The general then, after alleging the invasion of the French, and their erecting forts upon these lands, "contrary to the said deed and treaties; calls upon them in his name, to take up the hatchet, and come and take possession of *their own lands.*" These Indian claims are solemnly appealed to in a diplomatic memorial, addressed by the British ministry to the Duke Mirepoix, on the part of France, on the 7th June, 1755. *"It is a certain truth," this memorial states, "that the" (meaning the countries possessed by the Five Nations) "have belonged, and as they have not been given up, or made over to the English, belong still to the same Indian nations." The court of Great Britain maintained in this negotiation, †"that the Five Nations were by origin, or by right of conquest, the lawful proprietors of the river Ohio, and the territory in question."

In pursuance of this ancient aboriginal title, the author may not omit the testimony of Dr. Mitchell, who, at the solici-

* Franklin's works, ante. † Idem.

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tation of the British Board of Trade and Plantations, published a Map of North America, and was furnished for this purpose, with documents from the Colonial office. In this map, the same which the elder Adams mentions,* as the one by which the boundaries in the treaty of Paris of 1783, were adjusted; the Doctor observes, "that the Six Nations have extended their territories ever since the year 1672, when they subdued, and were incorporated with, the ancient Shawanese, the *native proprietors* of these countries. Besides which, they likewise claim a right of conquest over the Illinois and all the Mississippi, as far as they extend." This, he adds, "is confirmed by their own claims and possessions in 1742, which include all the bounds here laid down (meaning on his map,) and none have ever thought fit to dispute them." Such faith did the British government and their agent, Sir William Johnson, repose in this Indian title, that in October, 1768, agreeably to ministerial instructions solicited by Pennsylvania, "through Dr. Franklin, it was purchased of its holders, the Six Nations, for £10,460 7s. 6d. sterling. This Indian treaty was held at Fort Stanwix, afterwards denominated Fort Schuyler, and now included in the township of Rome, on the Erie canal, in the State of New York. At this meeting, so memorable in the annals of the west, the Six Nations declared to the agent, eminent for his knowledge of Indian concerns, that "you who know all our affairs, must be sensible, that our rights go much further to the south than the Kenhawa, and that we have a very good and clear title, as far south as the Cherokee river, which we cannot allow to be the right of any other Indians, without doing wrong to our posterity, and acting unworthy of those warriors who fought and conquered it; we therefore, expect this our right, will be considered." In 1781,† Colonel Croghan who, for thirty years had been deputy superintendent among the Six Nations, deposed, "that these Indians claimed by right of conquest, all the lands on the south-east side of the Ohio, to the Cherokee river, and on the west side, down to the Big Miami, otherwise called Stony river." This title, as has been men-

* State Papers, vol. x, 15. † Haywood's Tennessee, p. 232.

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tioned was alienated to the British Crown in the treaty to which reference has just been had. The Cherokee river mentioned in this session, was also called the Hogotege* in the treaty, and is now known as the Tennessee river. The first of these names is used convertibly with Tennessee, by the legislature of Virginia in their resolutions of 1778, and again in the celebrated land law fo 1779,† as well as in Filson's Topography of Kentucky, compiled in 1784. It is hoped that before the termination of this history, some more minute account of this remarkable treaty may be obtained from the inquiries, so courteously promoted by Governor Breathitt of Kentucky, and addressed to the government of our parent State. Yet the hope is but faint, unless the inquiry shall be pursued to the Colonial office in London, since, on application of secretary Jefferson, in 1793, to Governor Clinton of New York, for copies of all Indian treaties negotiated during the colonial government; it was replied, that on the rupture of the revolution, the British Superintendent for Indian affairs, had taken away all the papers belonging to his department.

Thus far the aboriginal title to Kentucky has been traced to its transfer to the British Crown; and although, as a matter of convention, and a question of treaty obligation, it seems well founded; yet it is not quite conclusive against the tribes west of the Six Nations. In the fluctuations so peculiarly incident to savage society, one tribe successively succeeds to the dominion, and the rights of its feebler neighbor; and in the weakness consequent upon the approach of the dense population of agricultural society, while one nation fades before the civilized man, another formerly tributary, resumes the paramount authority, which had been lost by its conquerors. In this manner, the north-western tribes, who seem to have been conquered by the Mohawks in ancient times, appear to have succeeded to the rights of their conquerors, when their former masters had lost the predominancy, which they certainly possessed during the war of 1755. Since our countrymen have been particularly acquainted with the north-western Indians, and have under-

* Haywood's History of Tennessee, 231-2 † Henning's Statutes at large, 2, 1779.

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stood their titles and fluctuating dominions, the Miami confederacy, or as they designated it, the Mi-a-mi-ah, have occupied the country between the Ohio, the lakes and the Mississippi, as far east as the Scioto. General Harrison, to whose curious inquiries the country is particularly indebted for information on this subject, gives this account in his valuable letter to Secretary Armstrong, in 1814. *"They (meaning the Miamis) have no tradition of removing from any other quarter of the country; whereas all the neighboring tribes, the Piankishaws excepted, who are a branch of the Miamies, are either intruders upon them, or have been permitted to settle in their country." "The claims of the Miamies were bounded on the north and west by those of the Illinois confederacy, consisting originally of five tribes, called Kaskaskias, Cahokias, Peorians, Michiganians, and Temarois, speaking the Miami language, and no doubt, branches of that nation."

In the above war between France and Great Britian,† the Indians inhabiting the countries between the rivers Mississippi, Ohio, and Miami, were known by the name of the Western confederacy, and were the allies of the former; while the Six Nations were attached to the latter, and were denominated the Northern confederacy. ‡On the termination of this war, the Kaskaskias, under the mediation of the British government, formed a treaty of peace with the Iroquois. The former tribe, including the tribes between the Wabash and the Mississippi, had previously separated from the rest of the confederacy; for indeed the nature of Indian society, forbids the continuance of any large population together; and hence its endless ramification. The Illinois tribes had been driven from their possessions on lake Michigan, and had been nearly extirpated by the Sacs or Saukies, before the close of our revolutionary war. But all the traditional accounts of the north-western Indians, represent the country now composing the State of Indiana and that of Ohio west of the Scioto, to have been occupied by the Miami confederacy. The occupation of the country on the

* McAfee's History, p. 43. † Wheaton's Reports, Johnson against McIntosh. ‡ Gen. Harrison's Letter to the Author.

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Scioto and the Miamis of the Ohio by the Delawares and Shawnees, was on the same authority, of more recent date, and by the permission of the Miamis. The Wyandots were the most easterly of these nations, and had long before the revolutionary war, carried on hostilities with the Mohawks. One battle fought in canoes near Long Point, on lake Erie, was so fatal to the Wyandots, as to have compelled the remnant of their tribe to remove to lake Michigan. The precise date of these events, cannot now be ascertained; but sometime before the close of the revolution, the Wyandots were found in their ancient seats about Sandusky river. Their numbers were not formidable, but their character for valor was so distinguished, that they obtained the custody of the great calumet, which was the emblem of the confederacy of nine tribes, formed by British influence against the United States, and terminated only by the victory of Wayne, at the rapids of the Maumee, in 1794. The return of this tribe, was in all probability, the result of British mediation, after their conquest of Canada. The Senecas, the most western of the Six Nations, had, at one time, extended themselves as far as the Sandusky river, and possessed a town upon it, which bore their name.* This is the farthest western settlement of the Six Nations known, independent of the accounts of the colonial writers, which have been quoted; now had they conquered the Wyandots, still this tribe have not been discovered to have had any pretensions to Kentucky, beyond the other coterminous bands. Within the personal knowledge of our countrymen since the war of 1755, Kentucky has not been in the occupancy of any tribe. There are indeed through it, as all over the western country, indications of a race of people having existed, much more advanced in the arts, than the tribes known to us; but, whose history is but a tissue of faint and disjointed conjectures, like that of innumerable tribes all over the globe, who have been destitute of letters and the use of the metals. Without these foundations, civilization has neither fruits to record, nor instruments to perpetuate their memory. Our hunters from 1767, in their various pere-

* General Harrison had his head quarters at this point during the late war.

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grinations through the territory, since denominated Kentucky, met with no marks of a modern Indian town within the whole extent of the country. The villages of Indians known to have been nearest to Kentucky, were on the Scioto and the Miamis of the Ohio in the north, and on the waters of the Tennessee river in the south. From these points, the various war and hunting parties issued to engage in the one or the other pursuit, as the passions, or the opportunties of their expeditions might lead. Here, the Chickasaws and Cherokees of the south, used to engage with various tribes of the Miami confederacy; here they indulged their passions for hunting, in the profusion of game afforded by Kentucky. So much was this ground exempted from settlement, that on neither the Ohio nor the lower Tennessee, are any Indian towns known to have been settled. Yet no situations have generally delighted savage tribes so much, as the margins of water courses; the opportunities of navigation and of fishing, unite to attract them to such spots. Accordingly the banks of most of our western rivers, excepting those of Kentucky, (although they abounded in game and in salt licks,) were found occupied by the native tribes of the forests.

There is another circumstance suggested by Gen. Harrison, which confirms the modern limitation of the Six Nations, whatever may have been their ancient ascendency. The chief seat of the Miamis was the scite of Fort Wayne, between the St. Joseph's and the St. Mary's. Had the Six Nations achieved any great recent success over the Miamis, they would in all probability, have forced them from this favorite spot, which is the key to the country below; and the defeated tribes would have been driven on their confederates upon the lower Wabash. This, however, was not their location.

That long and obstinate wars subsisted between the Iroquois and their immediate western neighbors, about the middle of the last century, derives much probability from another circumstance. *The French for fifty years, used no route to their possessions on the Mississippi, but the circuitous one by lakes

* Letter of Gen. Harrison.

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Erie and Michigan, and the Fox and Wisconsin rivers. This distant embarrassed course of communication, could not have been resorted to, from their ignorance of the more direct route, by the Maumee and the Wabash. It is therefore to be presumed, that the prevalence of wars between the adjacent tribes, prevented them from passing over this belligerent ground. It was not till about 1735, that Capt. De Vincennes, accompanied by a Jesuit, accomplished the passage by this latter route. Sometime before this period, the Wyandots probably returned; and peace having been made with the Six Nations, the country was opened to the enterprises of the French, as has been seen. No treaties made with the north-western Indians *directly*, are known to exist in our imperfect colonial records, previous to the treaty of 1774, between Lord Dunmore and the Shawanees, if even this has been preserved.

The nature of this treaty, the author has been unable to ascertain with any precision from any accessable records. There is a brief notice of its purport, in Burk's Virginia,* which represents, that peace was made by the royal governor with the Shawanees, on "condition that the lands on *this side of the Ohio*, should be forever ceded to the whites; that their prisoners should be delivered up, and that four hostages should be immediately given for the faithful performance of these conditions." Such a treaty appears at this day, to be utterly beyond the advantages which could have been claimed from Dunmore's expedition. The principal blow had been struck by the left wing of his army apart from him, at the bloody battle of Point Pleasant, in which, under Col. Andrew Lewis, with the choicest spirits of the western backwoodsmen, the Indians fought with an open resolution worthy of their highest military fame, although they retreated.† Gov. Dunmore crossed the Ohio seventy-five miles above the mouth of the Kenhawa, and ordered Lewis to join him at the Indian towns eighty miles from the river. Here but little fighting is said to have taken place, when the Governor patched up a peace, which would have little deserved the subsequent suspicions evinced by the legislature of Virginia,‡

* 3d vol. p. 396. † Wirt's Life of Patrick Henry. ‡ Niles' Register, vol. 12, p. 145.

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had it affected a transfer of such valuable territory even at that day. Then, indeed, the prospect of western prosperity, was thickly veiled, in comparison with its modern reality, and still more splendid indications; yet the "colony and ancient dominion of Virginia," was by no means, insensible to the cradle of empire she possessed, extending from the Alleghany to the Mississippi. This is evinced by the eagerness with which she laid claim in her first constitution of June 29th, 1776, to the extreme boundaries of dominion, under the charter granted by James the first of Great Britian. "Within these limits she asserted the exclusive right of purchasing the soil from the aborigines." So far the title of the Indians to Kentucky and the adjacent country, has been traced to its voluntary conveyance to the British Crown, for a valuable consideration at the treaty of Fort Stanwix, in 1768. This treaty was formed on the principles which had regulated the intercourse of the French and British with the natives of North America, from the earliest period of their connexion.

The European nations seem to have adopted the principle of prior discovery, as one of peace among themselves, and not as a source of title over the aboriginal inhabitants.* Spain, in the discussions with other European nations, as well as with the United States, placed her title to her American possessions, not upon the celebrated bull of Pope Alexander VI., but upon the rights given by discovery; "Portugal sustained her claim to the Brazils by the same title. France also founded her title to the vast possessions she claimed in America on discovery." The letters patent granted to the Sieur Demonts, in 1603, constituted him Lieutenant General, and the representative of the King in Acadie, which is described as stretching from the 40th to the 46th degree of north latitude. The States of Holland also made acquisitions in America, and sustained their right on the common principle adopted in Europe. No one of the powers of Europe gave its full assent to this principle, more unequivocally than England. So early as 1495, her monarch granted a commission to the Cabots to discover coun-

* 8 Wheaton's Reports; McIntosh against Johnson.

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tries then unknown to *Christian people*, and to take possession of them, in the name of the King of England. In the same manner were granted, the charters to Sir Humphrey Gilbert, Sir Walter Raleigh, and finally to Sir Thomas Gates, and others, in 1606. The latter charter granted the country between 34 and 41 degrees of north latitude: this was afterwards enlarged in 1609, into the grant to the Treasurer and Company of Adventurers of the city of London for the first colony in Virginia. This charter embraced four hundred miles in absolute property, extending along the sea coast and into *the land throughout from sea to sea*. Between France and Great Britian, whose discoveries, as well as settlements, were nearly cotemporaneous, contests for the country actually covered by the Indians, began as soon as their settlements approached each other, and were continued until finally settled in the year 1763 by the treaty of Paris. In the controversies which were closed by this war, France had contended, not only that the St. Lawrence was to be considered as the centre of Canada, but that the Ohio was within that colony. She founded this claim on discovery, and on having used this river for transportation of troops in a war with some southern Indians. In the treaty of 1763, "France ceded and guarantied to Great Britian, all Nova Scotia or Acadie and Canada, with their dependencies, to the middle of the Mississippi, and the lakes Maurepas and Pontchartrain," while Great Britian on her part, surrendered to France all her pretensions to the country west of the Mississippi. "It has never been supposed that she surrendered nothing, although she was not in possession of a foot of the land. She surrendered all right to acquire the country; and any after attempt to purchase it from the Indians, would have been considered and treated as an invasion of the territory of France. Thus, all the nations of Europe who have acquired territory from the Indians on this continent, have asserted in themselves, and have recognized in others, the exclusive right of the discoverer to appropriate the lands occupied by the Indians. By the treaty which concluded the war of our revolution, Great Britian relinquished all claim not only to the go-

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vernment, but to the "proprietary and territorial rights of the United States." By this treaty, the powers of the government, and the right to soil, which had previously been in Great Britain, passed definitely to these States. "They had before taken possession of them by declaring independence; but neither the declaration of independence, nor the treaty confirming it, could give us more than that, which we before possessed; or to which Great Britain was before entitled. It has never been doubted that the United States, or the several States, had a clear title to all the lands within the boundary lines described in the treaty, subject only to the *Indian right of occupancy*, and that the exclusive power to extinguish that right, was vested in that government, which might constitutionally exercise it." This extinguishment has been made as mentioned, by the treaty of Fort Stanwix for the country east of the Tennessee river; for the balance of Kentucky, to the Mississippi, a treaty with the Chickasaws on the 19th October, 1818, provided. In addition to these transfers of native title to Kentucky, a conveyance was made by the southern Indians, the Cherokees, to Richard Henderson and Company, on the 17th March, 1775, on the Wataga or Wataugah, the south-eastern branch of Holston. By this treaty was ceded, as it imports, "all the tract or territory of lands now called by the name of TRANSYLVANIA, lying on the Ohio river, and the waters thereof, branches of the Mississippi, and bounded as follows: Beginning on the said Ohio river at the mouth of the Cantuckey Chenoee, or what by the English is called Louisa river; from thence running up the said river, and most northwardly fork of the same to the head spring thereof; thence a south-east course to the top ridge of Powel's mountain; thence westwardly along the ridge of the said mountain unto a point from which a north-west course will hit or strike the head spring of the most southwardly branch of Cumberland river; thence down the said river including all its waters, to the Ohio river; thence up the said river as it meanders to the beginning. Which said tract or territory of lands was at the time of said purchase, and *time out of mind*, had been the land and hunting grounds of the said tribe of (Chero-

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kee) Indians." The consideration paid for this great section of Kentucky between the river of that name and the Cumberland, was £10,000 sterling in merchandise. Another treaty in regard to Kentucky, is said by John Filson,* to have been negotiated with the Five Nations, for the country between the Kentucky river, and the great Kenhawa, by Colonel Donaldson of Virginia, in consideration of £500 sterling. All the research which the author has, through the courtesy of the Governor of Kentucky, been able to institute on the subject of these ancient Indian negotiations, remains without an answer. In both these instances, certainly in the first, the legislature invalidated the private purchase in favor of the public domain; and assigned compensation to the individuals, in large cessions of lands. This Indian title was, notwithstanding the subsequent acknowledgment of Virginia, contrary to her own sense of Indian rights, as well as that of the Cherokees; if there has been no mistake in an anecdote told us by judge Haywood in his History of Tennessee. At the treaty of Fort Stanwix, which has so often been unavoidably brought to the reader's attention, the judge says, in 1766, but the author thinks by mistake, some of the Cherokees are said to have attended. They had killed on their route some game for their support; and upon their arrival at the treaty ground, tendered the skins to the Six Nations, saying, "*they are yours, we killed them after passing the big river*," the name by which they had always designated the Tennessee. In 1769, Dr. Walker and Colonel Lewis were sent as commissioners by Lord Bottetourt, to correct the mistakes of Mr. Stewart, the southern superintendent of Indian affairs, in regard to the Cherokee claims. These gentlemen had long been conversant, says Dr. Franklin, in Indian affairs, and were well acquainted with the actual extent of the Cherokee country. Yet they most positively informed Mr. Stewart, that "the country *southward of the Big Kenhawa was never claimed* by the Cherokees, and now is the property of the crown, as Sir William Johnson purchased it of the Six Nations, at a very considerable expense; and took a deed of cession from them at Fort Stanwix."

* Filson's Kentucky, 1793.

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Such, however, as the title might be, it was purchased, and constituted into the colony of *Transylvania*, by Col. Henderson and his associates; though subsequently invalidated as respected the *grantees*, by the government of Virginia. The claims of Col. Henderson & Co. were compromised, by a grant of 200,000 acres of land at the mouth of Green river, by Virginia, and as much in Powel's valley by North Carolina.

It was at this treaty, that Daniel Boone was told by an old Indian, who had signed the treaty, taking him by the hand, "brother," says he, "we have given you a fine land, but I believe you will have much trouble in settling it;" words, as events mourfully proved, of most ominous meaning. The troubles of Kentucky have been marked broad and deep in blood; and still deeper in the keen wounds of the heart, which often shew themselves by that consuming grief, which withers up the sources of joy, and at length wears away its victim to the grave.

Thus by fair and repeated treaties; first of 1768, with the Six Nations, by which the Indian title to Kentucky, was extinguished as far south as the Tennessee river; secondly, by the treaty with the Shawanees with Lord Dunmore, in 1774; thirdly, by the treaty with the Cherokees in 1775, in consideration of £10,000 sterling, their title was extinguished to that portion of Kentucky, between the river of that name and the Cumberland Mountains and Cumberland river; also, by the treaty of Fort M'Intosh* in 1785; confirmed and enlarged by the treaty of Greenville in 1795; and, lastly, by the treaty with the Chickasaws in 1818; all that part of Kentucky west of the Tennessee and south of the Ohio was acquired. Are not these documents, rights and title deeds, which the people of Kentucky may proudly point out to the cavillers against her title? No private proprietor, no freeholder in the land, can exhibit a better connected chain of title to his possessions, than the State of Kentucky can shew to her domain. In this investigation, the author has not thought it within his province, to engage in metaphysical discussions of natural right. He gladly prefers to such unsettled discussions, the authority and practical decisions of the govern-

* On the Ohio river, near Big Beaver Creek.

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ment and the high judicial tribunals of his country. Nor have the statesmen and jurists of the United States differed from those of the great European powers on these high questions of social rights and political obligations between them and the Indian tribes on this continent. This relation is forcibly stated in the following extract from the negotiations at Ghent, on the part of the American ministers.* "The Indians residing within the United States, are so far independent, that they live under their own customs, and not under the laws of the United States; that their rights upon the lands where they inhabit, or hunt, are secured to them by boundaries defined in amicable treaties between the United States and themselves; and that wherever these boundaries are varied, it is also by amicable and voluntary treaties, by which they receive from the United States ample compensation for every right they have to the lands ceded to them. They are so far dependent as not to have the right to dispose of their lands to any private persons, nor to any power other than the United States, and to be under their protection alone, and not under that of any other power." This subject is further enlarged as follows: "the United States while intending never to acquire lands from the Indiuns otherwise than peaceably, and with their free consent, are fully determined in that manner, progressively, and in proportion as their growing population may require, to reclaim from a state of nature, and to bring into cultivation, every portion of the territory contained within their acknowledged boundaries. In thus providing for the support of millions of civilized beings, they will not violate any dictate of justice or humanity, for they will not only give to the few thousand savages scattered over that territory, an ample equivalent for any right they may surrender, but will always leave them the possession of lands more than they can cultivate, and more than adequate to their subsistence, comfort, and enjoyment by cultivation."

But the author is not disposed in this deduction of title founded on solemn treaties, such as have from time immemorial governed the relations of political societies, to overlook the valor and

* State Papers, vol. ix. 396, 406

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enduring hardihood, by which the rights of Kentucky have been confirmed and sealed in the blood and by the arms of her sons. The right of arms and of conquest are parts of the law of nations; and the people of Kentucky are entitled to their operation, as much as every other body politic. Such indeed, is the uncertain condition of even civilized society, that helpless are the plainest rights of men, which are not supported and vindicated when necessary, by the courage and the manly firmness of their possessors. To the fruits of this courage and endurance of suffering in every appalling form, no portion of the western country has superior claim to that of Kentucky. She has been the nursing mother of the west, the blood of her children has flowed freely on every battle field; and now, let them and their posterity enjoy the honors so manfully won.

CHAPTER II.

Policy of the British Government—Proclamation of 1763—Violations of it—Visit of Dr. Walker in 1747—Names the Shawanee river, Cumberland—Visit of John Finley—of Daniel Boone—Long hunters—Visit of Capt. Thomas Bullitt and McAfees—Surveys of Louisville—Simon Kenton—Burning of Hendricks—Adventures of the McAfees—James Harrod settles Harrodsburg—Battle of Point Pleasant—Treaty of 1774—Treaty of 1775—Settlement of Boonesborough and St. Asaphs—Indian method of siege.

The British government seems to have suspected the policy of extending her colonies *freely*, on this side the Alleganies; though several large grants of land had been made to different land companies.* The proclamation of the king, however, in 1763, expressly prohibited the granting warrants of survey, or passing "patents for any lands *beyond* the heads or sources of any of the rivers, which fall into the Atlantic Ocean from the west of north-west." But so irresistible is the love of adventure in the early state of society, so irrepressible is its fondness for new and unexplored scenes of enterprise, that as was once said in the senate of the United States, "you might as well inhibit the fish from swimming down the western rivers to the sea, as to prohibit the people from settling on the new lands."

* 4th vol. Franklin's Works; Ohio Settlement; Marshall's Colonial History, p. 281.

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The whole history of our country, and particularly of its western section, is an exemplification of this enterprising spirit: nor could tenfold the energies of the British government have repressed this darling passion of society. Accordingly it was found seeking its gratification, by numerous pioneers, who sometimes singly, and at other times in *parties*, little stronger, considering the fearful odds of enemies and distance, opposed to them, engaged in exploring this new region of the West. No doubt the military conflicts of our countrymen with the French and Indians, in the war of '55, and the distinguished success with which it closed, must have brought many gallant spirits acquainted imperfectly with the country on the lower Ohio; and as far as it was imperfect, so much more would their ardent imaginations enhance its interest, and would their curiosity be stimulated. Indeed, the actual occupation of the country acquired by the peace of 1763, obliged the British officers to pass through the western country to St. Vincents, as Vincennes was then called, to Kaskaskias and Cahokia.

Previous to this time, as early as* 1747, Dr. Walker, of Virginia led an exploring party through the north-eastern portion of the State and gave the name of Cumberland, after the "Bloody Duke," of that name, to the present river, formerly called Shawanee river, and likewise Louisa, to the Big Sandy river on the east, a name now confined to one of its upper forks; but which was at first applied to the Kentucky.† This party, having unfortunately fallen upon the most mountainous portion of the State, did not effect much, in favor of Kentucky by their report. John Finley, of North Carolina, and his companions, are said by Daniel Boone, to have visited the country, in 1767, without however leaving, it is believed, a trace of their expedition beyond their names; now so briefly, but unavoidably recorded. Two years after the return of Finley, Daniel Boone tells us in his meagre ‡narrative, that "on the first of May ,1769, he left his *peaceable* habitation on the Yadkin River, in North-Carolina," in quest of the country of Kentucky,

* Dr Walker so informed John Brown, Esq., of Frankfort. † McAfee and Ray. ‡ Composed by John Filson, from the dictation of Boone, in 1784.

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in company with John Finley, John Stewart, and three others. To a philosophic observer in the ancient and ripened states of society, could any thing appear more forlorn and quixotic, than thus to abandon *peaceable* habitations in the very spring and seed time of the year; to go in quest of a distant and unknown country, infested with wild beasts and enemies not less savage; a region beset with every variety of difficulty and hardship! Yet while these difficulties deter the quiet and industrious, they only stir the blood and string the nerves of the enterprising and the restless. Both characters have their appropriate periods and sphere of social utility.

Our daring explorer continues; "we proceeded successfully, and after a long and fatiguing journey, through a mountainous wilderness in a western direction, on the 7th day of June following, we found ourselves on Red River, the northernmost branch of the Kentucky river; where John Finley had formerly been trading with the Indians, and from the top of an eminence, we saw with pleasure, the beautiful level of Kentucky." Let us attend to the first recorded impressions, which, this new country made upon its hardy and fearless explorers; "we found" says the narrative "every where abundance of wild beasts of all sorts through this vast forest." The buffaloes (or the bison of the naturalist) were more frequent than I have seen, says Boone, "cattle in the settlements, browzing on the leaves, or cropping the herbage on these extensive plains." The party continued "hunting with great success until the 22d of December following." Soon after this, John Stewart was killed, the first victim, as far as is known, in the hecatombs of white men, offered by the Indians to the god of battles, in their desperate and ruthless contention for Kentucky. Our author or pamphleteer then says, that he and his brother Squire Boone, who had reached the country some time before in pursuit of his roving relative, continued during the winter undisturbed, until the first of May; when the former returned to the settlements, as the more densely inhabited parts of the country were called.

During this same year,* a party of about forty stout hunters,

* Marshall, 2, 9.

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"from New River, Holston and Clinch" united in a hunting expedition west of the Cumberland Mountains.

Nine of this party, led on by Col. James Knox, reached Kentucky; and, from the time they were absent from home, they "obtained the name of the *Long Hunters*." This expedition reached "the country south of the Kentucky river," and became acquainted with Green river, and the lower part of the Cumberland.

In addition to these parties, so naturally stimulated by the ardent curiosity incident to early and comparatively, idle society, the claimants of military bounty lands which had been obtained from the British crown, for services against the French, furnished a new and keen band of western explorers. Their land warrants were surveyed on the Kenhawa and the Ohio; though most positively against the very letter of the royal proclamation of '63. But at this distance from the royal court, it was nothing new in the history of government that edicts emanating, even from the king in council, should be but imperfectly regarded. However, this may be, land warrants were actually surveyed on the Kenhawa as early as 1772, and in 1773, several surveyors were deputied to lay out bounty lands on the Ohio river.

Amongst others Thomas Bullitt, uncle to the late Alexander Scott Bullitt, first lieutenant governor of Kentucky; and Hancock Taylor, engaged in this adventurous work. These gentlemen with their company were overtaken on the 28th of May, 1773, by the McAfees, whose exertions will hereafter occupy a conspicuous station in this narrative.

On the 29th, the party in one boat and four canoes, reached the Ohio river, and elected Bullitt their captain.

There is a romantic incident connected with this gentleman's descent of the Ohio, evincing singular intrepidity and presence of mind; it is taken from his journal, as Mr. Marshall says, and the author has found it substantially confirmed by the McAfee papers. While on his voyage, he left his boat and went alone through the woods to the Indian town of Old Chilicothe, on the Scioto. He arrived in the midst of the town undiscovered by the

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Indians, until he was waving his white flag as a token of peace. He was immediately asked what news? Was he from the Long Knife? And why, if he was a peace-messenger, he had not sent a runner? Bullitt, undauntedly replied, that he had no bad news; was from the Long Knife, and as the red men and the whites were at peace, he had came among his brothers to have a friendly talk with them, about living on the other side of the Ohio; that he had no runner swifter than himself; and, that he was in haste and could not wait the return of a runner. "Would you," said he, "if you were very hungry, and had killed a deer, send your squaw to town to tell the news, and wait her return before you eat?" This simple address to their own feelings, soon put the Indians in good humor, and at his desire a council was assembled to hear his talk the next day. Captain Bullitt then made strong assurances of friendship on the part of the whites and acknowledged that these "Shawanees and Delawares, our nearest neighbors," "did not get any of the money or blankets given for the land, which I and my people are going to settle. But it is agreed by the great men, who own the land, that they will make a present to both the Delawares and Shawanees, the next year; and the year following, that shall be as good." On the ensuing day, agreeably to the very deliberate manner of the Indians in council, Capt. Bullitt was informed, that "he seemed kind and friendly, and that it pleased them well." That as to "settling the country on the other side of the Ohio with your people, we are particularly pleased that they are not to *disturb* us in our hunting. For we must hunt, to kill meat for our women and children, and to get something to buy our powder and lead with, and to get us blankets and clothing." In these talks, there seems a strange want of the usual sagacity of the Indians as to the consequences of white men settling on their hunting grounds; so contrary to their melancholy experience for a century and a half previous; yet, the narrative is unimpeachable. On the part of Bullitt, too, the admission of *no compensation* to the Delawares and Shawanees, appears to be irreconcilable with the treaty at fort Stanwix with the master tribes of the confederacy, the Six Nations. However, this may

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be, the parties separated in perfect harmony, and Captain Bullitt proceeded to the Falls. Here he pitched his camp above the mouth of Beargrass creek, retiring of a night to the upper point of the shoal above *Corn Island*, opposite to the present city of Louisville. It was this gentleman, who, according to the testimony of Jacob Sodowsky, a respectable farmer, late of Jessamine county, in this State, first laid off the town of Louisville, in August, 1773. He likewise surveyed Bullitt's Lick in the adjoining county, of the same name.

Another surveyor by the name of James Douglass, followed Captain Bullitt during the same year, and on his way to the Falls landed near the celebrated collection of mammoth bones, which goes by the emphatic name of Big Bone Lick. Here Douglass remained forming his tent poles of the ribs of some of the enormous animals, which formerly frequented this remarkable spot, and on these ribs blankets were stretched for a shelter from the sun and the rain. Many teeth were from eight to nine, and some ten feet in length; one in particular was fastened in a perpendicular direction in the clay and mud, with the end six feet above the surface of the ground; an effort was made, by six men in vain, to extract it from its mortise. The lick extended to about ten acres of land bare of timber, and of grass or herbage; much trodden, eaten and depressed below the original surface; with here and there a nob remaining to shew its former elevation. Thereby indefinitely indicating a time when this resort of numerous animals had not taken place. Through the midst of this lick ran the creek, and on each side of which, a never-failing stream of salt water, whose fountains were in the open field. To this lick, from all parts of the neighboring country, were converging roads, made by the wild animals that resorted to the place for the salt, which both the earth and the water contained.

When the McAfees visited this lick with Captain Bullitt, several Delaware Indians were present; one of these being questioned by James McAfee, about the origin and nature of these extraordinary bones, replied, that they were then just as they had been, when he first saw them in his childhood. Yet this

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Indian appeared to be at least seventy years of age. Collections of the bones of animals, which have ceased to tenant the earth, are now familiar not only in the United States, but in other parts of the world; but none exceed the one in question, of the bones of the mammoth or the mastodon. About this time Colonel John Floyd visited Kentucky, as the deputy of Francis Preston, who was surveyor of Fincastle co. in Virginia, and was one of the party conducted 'in' by Boone; he afterwards returned in 1775, settled six miles from the Falls, at what was called Floyd's station on the middle fork of Beargrass creek; he afterwards distinguished himself in the history of the State. About this period, possibly not till 1774,* Simon Kenton, who afterwards, temporarily changed his name to Butler, descended the Ohio to Cabin creek, a few miles above the present Maysville. Shortly afterwards, Kenton in company with two others, reached the neighborhood of Mayslick, and for the first time, was struck with the uncommon beauty of the country and the fertility of the soil. Here the travelers fell in with a great buffalo trace, which, in a few hours brought them to the Lower Blue Lick. "The flats upon each side of the river were crowded with immense herds of buffalo, that had come down from the interior for the sake of the salt; and a number of elk were seen upon the bare ridges, which surrounded the springs." The same profusion of game presented itself at the Upper Blue Lick. "Returning as quick as possible, they built a cabin on the spot, where the town of Washington, in Mason county, now stands; and having cleared an acre of ground in the centre of a large canebrake, they planted it with Indian corn." Soon after this, Kenton and his two companions, having left one Hendricks, a fellow hunter at their camp, for the purpose of escorting another companion on his way home, upon returning, found the camp plundered with every mark of violence; and at a little distance in a low ravine, they obseved a thick smoke ascending, as if from a fire just beginning to burn. The party "believing that Hendricks had fallen into the hands of the Indians," who were now burning him, fled with a precipitation unworthy of their

McClung's Sketches, 99, 101

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leader's subsequent fame; and they did not venture to return, until the evening of the next day. The fire was still burning, though faintly, and after carefully reconnoitering the adjacent ground, they found the skull and bones of their unfortunate friend, as far as they had been left unconsumed. Hendricks had evidently, been burned to death by a party of Indians, and was the first, and as it is believed the last of such diabolical sacrifices, on the soil of Kentucky. Still, this most savage of the Indian customs, was often fearfully, and with every aggravation of torment inflicted on prisoners at their towns. It seems, however, during the late war of 1812, that it was greatly intermitted, if not entirely abandoned. Such is a faint instance of some of the horrors, endured by the early hunters of Kentucky. Peace to their ashes, and everlasting honor to their manly memory!

The McAfees next present themselves as an energetic determined family of men, even in the hardy and adventurous times which occupy this history. *This party consisting of James, George, and Robert McAfee, James McCoun, Jr. and Samuel Adams, left Sinking creek in Bottertourt county, Virginia, on the first of June, 1773; they struck across the country to New river, where, having sent back their horses by John McCoun and James Pawling, they descended the river in canoes. The party continued in company with Bullitt and his companions as has been mentioned, until they came to the mouth of the Kentucky river. At this point the company separated, Capt. Bullitt proceeding, as before observed, to the Falls, and the McAfees, with Hancock Taylor, ascended the Kentucky river, or *Levisa*, (possibly a corruption of Louisa,) to Drennon's lick creek, which they went up, as high as the lick. Here, they found a white man of the name of Drennon, who had crossed the country from the Big Bone Lick, and got before the McAfees one day. The same appearances presented themselves here, as at all the licks of the western country, a profusion of every sort of game struggling for the salt, all in sight at once; and the roads about the lick, as trodden and wide, as in the neighborhood of a

* McAfee papers in the possession of Gen. R. B. McAfee, in perfect preservation.

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populous city. They are spoken of as *streets*, by the old hunters. The party took one of these roads, or traces, as they were called, so fortunately made by the buffalo and other game, through almost impenetrable cane brakes, and crossed the Kentucky river, at the ford below Frankfort, opposite to what has since been called Lee's Town. Here they turned up the river and surveyed the bottom in which Frankfort now stands, being the first survey made on the Kentucky river; it took place the 16th July, 1773, for 600 acres. They then went up the ridge along the present Lexington road, until ten or eleven o'clock of the 17th, when they again crossed the Kentucky river seven miles above Frankfort, and passed a little east of the present Lawrenceburg, and encamped near the remarkable spring which is situated under a rock, on the road between Frankfort and Harrodsburg; then called the cave spring, and now known as Lillard's. After surveying some land, the party hunted westwardly, until they discovered salt river; but which they called Crooked creek: they then went down this creek to the mouth of Hammond's creek; surveying from this point, to the mouth of the branch, on which Harrodsburg now stands. On the 31st July, the company, with the exception of Taylor, who had gone with two others to join Bullitt at the Falls, took nearly a south-east course across Dick's river, several miles above the mouth; and about the 5th of August, reached the forks of the Kentucky river. Here the mountains were almost impassable on account of the thick laurel, the pine and the under brush; nor did they discover any game, until the 8th of August, when James McAfee killed a buck elk, which afforded them all the provision they had until the 12th. The country now presented nothing but naked rocks, the abode of desolation and ruin; silence reigned on every side, not a living animal but themselves to be seen. In this barren and mountainous region, the party wandered along, without a mouthful to eat for two days, their feet blistered and bruised with the rocks, their flesh torn by the briars, that covered the country, and no water to be found; then it was, that George McAfee and George Adams threw themselves on the ground, declaring they could go no

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further. In this distressing situation, at the point of starvation, in the midst of a wilderness, hundreds of miles from home, Robert McAfee, (the father of the present General Robert B. McAfee,) started alone to find something to kill. On passing the point of the next ridge, about sunset, he joyfully discovered a small buck about fifty yards off, and notwithstanding his intense anxiety for his brothers and other friends, whose lives depended on the certainty of his shot, he fired and killed his object. The rest of the party, animated by the report of his gun, came hobbling up, and a neighboring branch of water, enabled them all to recover from the late horrors. The party having traveled by what was called the hunters' path across the head of Powel's Valley, soon after safely returned to their anxious friends in Bottetourt.

So much seemed due to the peril and the hardihood of this enterprising adventure, whose particulars have been carefully and worthily preserved in the family papers. These hardships were, however, only a prelude to a series of most cruel and disheartening misfortunes that terminated in seating the family on some of the finest lands of Kentucky, to enjoy the love and the respect of a wide connexion of relations and of friends.

Other surveyors were sent to the Ohio in 1774, who landed at the Falls of that river, the present site of Louisville; they traveled up the Kentucky river as far as Elkhorn creek on the north side, and Dick's river on the south, to the neighborhood of the present towns of Frankfort and Danville. This, it is presumed, is the party of surveyors mentioned by Boone, as "having with one Michael Stoner, in June, 1774, conducted in, at the request of Lord Dunmore:" completing a tour of eight hundred miles through many difficulties, in sixty-eight days. As yet, no families had removed into this part of the country; but in the course of 1774, James Harrod, who had led a party from the country on the Monongahela, ascended the Kentucky river in canoes to Harrod's landing; and proceeding across the country, built the *first log cabin* in Kentucky, upon the present seat of Harrodsburg; hence, at that time, called Harrod's Town.* This however was not occupied long, before

* and after old Town.

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hostilities broke out with the Indians, and the battle of Point Pleasant was so obstinately fought at the mouth of the Kenhawa, on the 10th of October in this year. This, with the operations of the right wing under Lord Dunmore in person, had completed the rupture, which compelled the early explorers to withdraw from Kentucky; and indeed attracted the greater part of them, including Boone, Harrod and the Shelbys, to engage in the left wing of the expedition. After the peace concluded by Lord Dunmore, afterward so much suspected for its motives, Colonel Richard Henderson and his associates purchased the title* which the Cherokees maintained to the country, south of the Kentucky river. Boone was employed by this company of Indian purchasers, to mark a road through the southern wilderness, to the Kentucky river. Hitherto the access to the country had been by hunters' paths and buffalo traces. "We proceeded," says the pioneer, "with all possible expedition, until we came within fifteen miles of where Boonesborough now stands, on the south side of the Kentucky river, and in the present county of Madison. When the party of choppers and markers had reached this distance, they were fired upon by the Indians, who killed two men and wounded two others. Yet although surprised and taken at a disadvantage, we stood our ground." On the 23d March, the party was again attacked and lost two more men, and had three wounded: still, by the 1st April, they began to erect the fort, which was afterwards called Boonesborough. It was situated near a salt lick, about sixty yards from the Kentucky river, on the south side. Yet it is said to have been commanded from the cliffs on the opposite side of the river, whence a ball could reach the

* In connexion with this subject, a venerable friend has pointed out the following passage in Smollett's continuation of Hume's England. "In Great Britain, this year, 1730, was not distinguished by any transaction of great moment. Seven chiefs of the Cherokee Nations of Indians in America, were brought to England by Sir Alexander Cumin. Being introduced to the King, they laid their crown and regalia at his feet, and by an authentic deed acknowledged themselves subjects to his dominion, in the name of all their compatriots, who had vested them with full powers for this purpose. They were amazed and confounded at the riches and magnificence of the British Court; they compared the King and Queen to the Sun and Moon, the Princes to the Stars of Heaven, and themselves to nothing. They gave their assent in the most solemn manner, to articles of friendship and commerce, proposed by the Lords Commissioners for trade and plantatations; and being loaded with presents of necessaries, arms and ammunition, were reconveyed to their own country, which borders on the province of South Carolina." 2d vol. Smollett, 493.

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fort. It was not until the 14th of June, 1775, that the first fort of the white man was built in Kentucky. Well might the Indians, could they have anticipated the faintest shadow of the ills in store for them, and their whole race, from this foothold of the white man; have contested the fatal lodgment, with the last drop of their blood. The genius of their Pontiac, their Turtle and Tecumseh, did not display itself more gloriously at Detroit, against St. Clair, and on the Thames, than it might have done, in preventing the white man from erecting his forts in the great hunting ground of their tribes.

A fort in these rude military times, consisted of pieces of timber sharpened at the end and firmly lodged in the ground: rows of these pickets, enclosed the desired space, which embraced the cabins of the inhabitants. A block house or more, of superior care and strength, commanding the sides of the fort, with or without a ditch, completed the fortifications, or stations as they were called. Generally the sides of the interior cabins formed the sides of the fort. Slight as this advance was, in the art of war, it was more than sufficient against attacks of small arms, in the hands of such desultory warriors, as their irregular supplies of provisions necessarily rendered the Indians. Such was the nature of the military structures of the pioneers against their enemies. They were ever more formidable in the cane brakes and in the woods, than before even these imperfect fortifications.

About September, 1775, Hugh McGary, from the backwoods of North Carolina, Richard Hogan, and Thomas Denton, with their families, united to Daniel Boone and company, making, in the language of the times, twenty-seven guns; that is equivalent to twenty-seven fighting men. The party assembled in Powel's Valley, on the head of Holston river, after having waited three months, for the junction of Boone's company, and having sent one John Harman before them, to raise a crop of corn at Harrodstown. This labor he performed, in a field at the east end of the present town, where John Thompson, Esq., now lives. It is proper to mention, that Boone had previous to this, on the 25th September, 1773, made an attempt

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to move to Kentucky, "in company with five families, and forty men that joined us in Powel's Valley." But on the tenth October, Boone says, "the rear of our company was attacked by a number of Indians, who killed six men and wounded one." This severe repulse deterred the party from prosecuting their daring enterprise, until the time mentioned above.

When McGary's party had arrived at the head of Dick's river, Boone, with twenty-one men, went to Boonesborough, and left his previous associates to find their way as well as they could by his directions, through the pathless forest to Harrodstown. At the time of our narrative, there were but four cabins at this place, one of which was inhabited, and but five old soldiers in them, who had followed James Harrod from the Monongahela country. This distinguished explorer, had likewise settled a place known as Harrod's Station, about six miles east of Harrodsburg, on the present road to Danville.

The families with McGary, having got bewildered, left the horses and cattle with James Ray, John Denton and John Hays, all boys, (the former, now General James Ray) but fifteen years of age,) opposite to the mouth of Gilbert's creek, on the east side of Dick's river, while they attempted the route by themselves. McGary, finding no passage for the families at the mouth of Dick's river, on account of the lofty precipitous cliffs, went by himself to explore the way: by accident he fell on the path between Harrodsburg and Harrod's Station, and taking the eastern end, it brought him to the latter place, where he got Josiah Harlan, of lamented memory, to pilot the families, as well as the three boys into Harrodstown. Thus was formed the first domestic circle of Harrodsburg by Mrs. Denton, Mrs. McGary and Mrs. Hogan, with their families; where is now the resort of the gayest of the gay among the fashionables of the west. These younger woodsmen were not, however, relieved until three weeks had elapsed, instead of three days, as promised by McGary at first, when they were left on this forlorn hope. To add to their distress, they could not forget the fate of three boys, the eldest hopes of three families, who had been killed by the Indians in 1773, under very similar

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circumstances; while left to collect some stray horses in Powel's Valley, when moving with Boone to Kentucky. One, the eldest son of Boone, had been a playmate of James Ray in North Carolina. During the winter of '75–6, was begun the fort of Harrodstown, of such enduring importance in the early difficulties of Kentucky. It was situated on the hill, now occupied by the seminary building, and included a considerable spring of water at its foot: it was not finished until the ensuing season.

From this period may be dated the permanent settlement of Harrodsburg; about the same time, Colonel Benjamin Logan, of Virginia, established Logan's fort, about a mile west of the present town of Standford, in Lincoln county. The precise date of this establishment cannot be ascertained; but Col. Floyd speaks* of its being known as a station or fortified settlement, in May, 1775. At this time, the title of Henderson & Co., seems to have been generally acknowledged by the settlers in the country. Nor were their numbers so contemptible even at that early day; they are computed by a close observer, to have amounted to three hundred; and to have had about two hundred and thirty acres under cultivation in corn. So perfect at first, was the acquiesence of the people in the title of the company mentioned above, that eighteen delegates assembled in convention at Boonesborough in the course of this year, and after acknowledging Henderson & Co., as proprietors, "established courts of justice, rules for proceeding therein, also a militia law, an attachment law, a law for preserving the game and for appointing civil and military officers." Such was the incipient stage of this great Commonwealth, under what may be called its proprietary government. So eager were settlers to embark under the title of this great land company, that by the 1st of December, 1775, 560,000 acres of land were entered, as it is presumed in their office. Deeds of great formality were issued by this company calling themselves "proprietors of the *Colony* of *Transylvania* in America." By these deeds, the grantees under the

* Correspondence of Col. J. Floyd, with Col. William Preston, politely communicated by Nath. Hart, Esq., of Woodford county.

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company, bound themselves to pay them, "one moity or half part of all gold, silver, copper, lead or sulphur mines;" and, moreover, to pay the company a rent, as might be agreed on, "yearly and for every year." The penalty for not paying this rent was provided by a covenant, "that if no sufficient distress can be found on the premises whereon it shall be lawful for the said Co., to levy such rent or arrears, with full costs, charges and expenses in making and levying the same, then this present grant and all assignments shall be void and of none effect. The company then reserved a right "to re-enter into the said lands and re-grant the same to any other person or persons whatsoever." Had this company retained its title, Kentucky, would, within their *jurisdiction* or purchase, have been under a quit rent to those great proprietors forever. It is, however, much to be doubted, whether the high temper of the western people would have submitted to a state of things, which had been a constant source of heart burnings in the elder colonies. Sooner indeed than have been any thing less than fee simple or allodial proprietors, the hunters of the west, (had they not risen in arms,) would have abandoned the country, to these lords proprietors. Symptoms of the slight hold these terms had upon the hearts of the people, at the earliest manifestations of Indian hostilities, may be inferred from the fact; *that three hundred men are said to have left the country by July, 1776. Colonel Clark intimates the same in his memoir. He remarks, that the company "took great pains to ingratiate themselves in the favor of the people; but too soon, for their own interest began to raise upon their lands, which caused many to complain." Some dissatisfaction of this sort, seems to have operated in producing the subsequent mission of Clark and Jones, to the government of Virginia, respecting the regulation and sale of the country.

At the same time, in justice to this great company, it must be observed, that it furnished, although for sale, all the supplies of gunpowder and lead, with which the inhabitants defended themselves and their families. Indeed, the books of Henderson & Co., exhibit accounts for these articles with all the inhabi-

* Correspondence of Colonel Floyd.

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tants of the country, in the years 1775–6: while they are credited with various items, as cutting the road to *Cantucky*, hunting and ranging. The prices of articles in these accounts, afford some curious comparisons with those of the present times. Powder was charged at $2 66 per pound, and lead at 16⅔ cents; while labor was credited at 33 cents or fifty cents per day, for ranging, hunting or working on roads. These accounts remain unclosed upon the books in every instance, shewing a condition of no little indebtedness for the colonists of Transylvania to the great proprietors.

About the 16th July, 1776, it was discovered from the *sign*, as the marks of the enemy's presence were termed, that a large body of Indians had come into the country with hostile intentions; and had, according to their mode of invasion, dispersed in small bands, infesting the stations, at the same time.

A romantic instance of the insecurity of the times, and the ardent sympathy which knit the people to one another, is beautifully exhibited in the following narrative, in the words of an actor.* "On the 7th of July, 1776, the Indians took out of a canoe which was in the river, within sight of Boonesborough, Miss Betsy Calloway, her sister Frances, and a daughter of Daniel Boone. The last two are about thirteen or fourteen years of age and the other grown. The affair happened late in the afternoon," and the spoilers "left the canoe on the opposite side of the river from us, which prevented our getting over for some time to pursue them; Next morning by daylight we were on the track; but found they had totally prevented our following them by walking some distance apart, through the thickest cane they could find, we observed their course and on which side we had left their sign, and traveled upwards of thirty miles. We then imagined that they would be less cautious in traveling and made a turn in order to cross their trace, and had gone but a few miles, before we found their tracks in a buffalo path; pursued and overtook them on going about ten miles, just as they were kindling a fire to cook. Our study had been more to get the prisoners without giving the Indians time to murder them

* Colonel Floyd

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after they discovered us, than to kill them. We discovered each other nearly at the same time. Four of us fired, and all rushed on them, which prevented their carrying any thing away except one shot-gun without any ammunition. Mr. Boone and myself had a pretty fair shoot, just as they began to move off. I am well convinced I shot one through, and the one he shot dropped his gun, mine had none. The place was very thick with cane, and being so much elated on recovering the three little broken hearted girls, prevented our making any further search. We sent them off without their mockasons, and not one of them so much as a knife or a tomahawk." These are the unembellished circumstances of a transaction, which a lively and most interesting writer has, through misinformation, historically disfigured into a beautiful romance.* A continuation of such heart rending depredations and the death of the hunters in every direction, spread a dismay, which may faintly be conceived from the following most honorable extracts from the correspondence of the same gallant man whose narrative has just been quoted. "I want to return as much as any person can do; but if I leave the country now, there is scarcely one single man hereabouts, but what will follow the example. When I think of the deplorable condition of a few helpless families are likely to be in; I conclude to sell my life as dear as I can in their defence rather than make an *ignominious* retreat." Again he says, "I do at the request, and in behalf of all the distressed women and children, and the inhabitants of this place, implore the aid of every leading man, who may have it in his power, to give them any relief."

No place seems more appropriate than the present for detailing the circumstances usually attending an Indian siege. "The Indians in besieging a place are seldom seen in force upon any quarter; but dispersed, and acting individually, or in small parties. They conceal themselves in the bushes or weeds, or behind trees or stumps of trees; or waylay the path, or fields, or other places which their enemies resort; and when one or more can be taken down, in their opinion, they fire the gun, or let fly

* Flint's Life of Daniel Boone, page 89. † Marshall, 1, 43-44.

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the arrow, aimed at the mark. If necessary they retreat—if they dare, they advance upon their killed, or crippled adversary; and take his scalp, or make him prisoner, if possible. They aim to cut off the garrison supplies, by killing the cattle; and they watch the watering places, for those who go for that article of primary necessity; that they may by these means, reduce the place to their possession; or destroy its inhabitants, in detail."

"In the night, they will place themselves near the fort gate, ready to sacrifice the first person who shall appear in the morning: in the day, if there be any cover—such as grass, a bush, a large clod of earth, or a stone as big as a bushel, they will avail themselves of it, to approach the fort, by slipping forward on their bellies, within gun-shot; and then, whosoever appears first, gets the fire; while the assailant makes his retreat behind the smoke, from the gun. At other times they approach the walls, or pallisades, with the utmost audacity—and attempt to fire them, or to beat down the gate. They often make feints, to draw out the garrison on one side of the fort, and if practicable enter it by surprise on the other. And when their stock of provision is exhausted, this being an individual affair, they supply themselves by hunting; and again, frequently return to the siege; if by any means they hope to get a scalp."

"Such was the enemy who infested Kentucky, and with whom the early adventurers had to contend. In the combat, they were brave; in defeat, they were dexterous; in victory, they were cruel. Neither sex nor age, nor the prisoner were exempted from their tomahawk, or scalping knife. They saw their perpetual enemy, taking possession of their HUNTING GROUND; to them, the source of amusement, of supply, and of traffic; and they were determined to dispute it to the utmost extent of their means. Had they possessed the skill which combines individual effort, with a concerted attack; and had they directed their whole force against each of the forts, then few, and feeble, in succession; instead of dissipating their strength, by attacking all at the same time; they could easily have rid Kentucky of its new inhabitants: and again restored it to the buffalo, and

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the Indian; the wild game, and its red hunters. But it was ordered otherwise; and after inflicting great distress upon the settlers, without being able to take any of the forts, the approach of winter dispersed them; they having, in the mean time, killed sundry persons; and destroyed most of the cattle round the stations. Of the settlers, however, it is to be said, that they acquired fortitude, and dexterity in proportion to the occasional pressure. In the most difficult times, the Indians were obliged to retire into the woods, sometimes in pursuit of game, sometimes, as to a place of safety: and generally by night they withdrew, to encamp at a distance. In these intervals, the white men would plough their corn, or gather their crop, or get up their cattle, or hunt the deer, the bear, and buffalo, for their own food."

"When traveling, they left the paths; and they frequently employed the night, to get out from, or return to the garrison. In these excursions they often exchanged shots with the Indians: and at times, when they came to the station, found it invested."

In despite of these difficulties and dangers, struggling for life with the wilderness, and so wily and savage a foe, there were, "from a review of the records," more "improvements" (as cultivation or buildings are termed,) "with a view to future settlement," in this year, "than in any other." Nor were these dispersed parties in so wide a territory, so generally exposed to the attacks of the enemy, as the fixed and notorious forts.

CHAPTER III.

First visit of Clark to Kentucky—Visits Harrodstown—Chosen a delegate to the Virginia Legislature with Gabriel John Jones—Calls on Governor Henry—Receives gunpowder for Kentucky—Procures the creation of Kentucky county—Brings gunpowder from Fort Pitt—Conceals it on the banks of Limestone creek—Blackfish attacks Harrodstown—Singular escape of Ray—Plans approved by Governor and Council—Spies in Illinois—Arrives at the Falls of Ohio—Eclipse of the Sun—Passes the Falls—Reaches Kaskaskia—Surprises the town—Takes Cahokia.

The year 1775, was memorable for the arrival of that most daring and sagacious officer, George Rogers Clark, who was

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soon destined to intertwine his memory with honors, as lasting as the great country, which he, by his genius, brought under the American arms. "The appearance of Clark," says Mr. Marshall, "was well calculated to attract attention; it was rendered particularly agreeable by the manliness of his deportment, the intelligence of his conversation; but above all, by the vivacity and boldness of his spirit for enterprise, and the determination he expressed of becoming an inhabitant of the country. He fixed on no particular residence, was much in the woods; incidentally visiting the forts and ostensible camps; he cultivated the acquaintance of the people, and acquired an extensive knowledge of the various objects presented to his curiosity or to his inspection."

This distinguished commander, who, amidst deeds of hardihood and times of most gallant adventure, was by the general consent of his compeers, looked up to as their chief, was born in the county of Albermarle, in the State of Virginia, in September, 1773. He, like the great master chief of the revolution, engaged in the business of land surveying, under the unfortunate Colonel Crawford. There seems a fond alliance between this pursuit and many of the attractions of military life; free exercise in the open air, and adventurous exposure, both combine to fasten on a military spirit an attachment to this business, in the frontier woods of North America, requiring, at the times in question, so much fortitude and bravery. Little is known of the early years of George Rogers Clark, but the stirring times and the confined opportunities of that part of Virginia, though now the seat of the literary monument which consecrated the last days of the great Jefferson, forbid much expectation beyond the elements of his language, and those not taught with the utmost precision. He is said to have been much devoted to several branches of mathematics and was distinguished for his precise and minute knowledge of geography. Like many other of the gallant spirits of his time, he embarked at the head of a company, in Dunmore's war, and was engaged in the only active operation of the right wing against the Indians. After the suspicious haste with which

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peace was made by Lord Dunmore, without following up the bloody blows of Point Pleasant, he was offered by the Governor, a commission in the royal service. This, on consultation with his friends, he was induced by the troubled complexion of affairs between his native country and Great Britain, to refuse. Early in 1775, Clark visited Kentucky, as the favorite theatre of romantic adventure at that day; he penetrated to Harrodstown, which after having been abandoned by Colonel Harrod, on the late rupture with the Indians, had been re-possessed by him. In this visit, he either had a commission of Major, or was from his service in Dunmore's war, and prominent talents, voluntarily placed at the head of the irregular troops, then in Kentucky. He himself only speaks of settling in the fall of 1777, the accounts of the Kentucky militia which would confirm the idea of his previous command, besides being known at that time as Major Clark. In the ensuing autumn Clark returned to Virginia, and again came back to Kentucky in the spring of '76.* He reflected deeply on its value to Virginia as a frontier, as well as to the rest of the confederacy. The result of these meditations suggested to him, the importance of assembling the people of the country at Harrodstown, as it was then called, to devise a plan for the public defence. At this time the claim of Henderson and Company, acquired under the treaty of Watagа, in March, 1775, with the Cherokees, made a great deal of noise, and added no little to the perplexities of the settlers.

* In regard to this second visit, the author cannot resist the temptation to narrate an anecdote, which he in substance received from the lips of General Ray. It illustrates the hardy privations of the times, and the free and generous spirit, in which all the little alleviations of these hardships, were shared with a fellow hunter in distress. "I had come down" said the General, "to where I now live," (about four miles north of Harrodsburg,) "to turn some horses out in the range; I had killed a small blue wing duck, that was feeding in my spring, and had roasted it nicely on the brow of the hill, about twenty steps east of my house." After having taken it off to cool, I was much surpised on being suddenly accosted by a fine soldierly looking man, who exclaimed, "How do you do my little fellow? What is your name? An't you afraid of being in the woods by yourself?" On satisfying his inquiries, I invited the traveler to partake of my duck, which he did without leaving me a bone to pick. his appetite was so keen; though he should have been welcome to all the game I could have killed, said Ray, when I afterwards became acquainted with his noble and gallant soul. After satisfying his questions, he inquired of the stranger his own name and business in this remote region. My name is Clark, he answered, and I have come out to see what you brave fellows are doing in Kentucky, and to lend you a helping hand if necessary. The General, a boy of sixteen, then conducted Clark to Harrodstown, where he spent his time making the observations on the condition and prospects of the country, natural to his comprehensive mind, and assisting at every opportunity in its defence.

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It became uncertain whether the south side of the Kentucky river appertained to Virginia or to North Carolina. These difficulties increased the necessity of ascertaining the disposition of the former; on the 6th of June, 1775, at the suggestion of Clark, a general meeting took place in Harrodstown, at which he, and Gabriel John Jones, were chosen members of the Assembly of Virginia. This, however, was not the course intended by Clark; he wanted the people to choose agents, with general powers to negotiate with the government of Virginia, and if abandoned by it, to employ the lands of the country, as a fund to obtain settlers, and establish an independent State. The election had, however, proceeded too far to change its object, when Clark, who had been detained, arrived at the town; the gentlemen elected, although they were aware the choice could give them no seat in the legislature, proceeded to Williamsburg, at that time the seat of Government. They selected the route through the southern wilderness, as it has generally been called, lying between the settlements of Kentucky, and those of Virginia, under most distressing difficulties. Independent of losing one of their horses, the extreme wetness of the season, and the danger of kindling fires, amidst straggling parties of Indians, the traveling through the mud, and over the mountains, brought on a most painful affliction, called by the hunters, the *scald feet.* In this complaint, the feet become useless from excessive tenderness, and the skin decays; so that the weight of the body becomes intolerable. While suffering in this manner, "more torment than I ever experienced," says Clark, "before, or since," they found the old stations near the Cumberland Gap, and Martin's fort, where they fondly hoped to have found relief, both abandoned by the inhabitants, owing to fear of the Indians. At the latter place, however, the desperate party determined to stay until their feet were recovered; when this was accomplished, they again prosecuted their journey. On reaching the county of Bottetourt, it was found that the legislature had adjourned: upon which, Mr. Jones returned to the settlement on Holston, and left Clark to attend to the Kentucky mission. He immediately waited on

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Governor Henry, then lying sick at his residence in Hanover county, to whom he opened the objects of his journey; these met the cordial approbation of the Governor; in consequence of which, he gave Clark a suitable letter to the executive council of the State. An application was then made to the council for five hundred weight of gunpowder, in order to defend the stations in Kentucky. This body, though well disposed to assist their countrymen, remote as their siutation was, and not yet united to Virginia, by any express legislative recognition, said, they could only *lend* the powder to them, as friends in distress, but could not give it to them as fellow-citizens. At the same time, they required Clark to be answerable for the value in case the legislature should not recognize the Kentuckians as citizens; and, in the meantime, to bear the expenses of its conveyance to Kentucky. This, Clark assured them was out of his power; he represented to them that the British were trying every means to engage the Indians in the war; that the people in the remote and exposed stations of Kentucky, might be destroyed for want of the supply, which he, a private individual, had sought at so much hazard and hardship for their relief; that when this frontier was destroyed, the fury of the savages would be brought nearer home. The council was still inexorable, the sympathy for the frontier settlers was deep, but the assistance already offered, was a stretch of power, and the council declared they could go no farther. The order was then issued to the keeper of the public magazine to deliver the powder to Clark: he had long reflected on the situation, and the prospects of the country he had left; his resolution to reject the assistance on these conditions, was fixed, he says, before he left the council chamber, to repair to Kentucky, and as he had at first proposed, exert the resources of the country for the formation of an *independent State*. He, accordingly returned the order of the council in a letter, informing them, that he had weighed the matter well, and had found it utterly out of his power, to convey military stores to such a distance, through an enemy's country; he added, that he was mortified to find, that the people of Kentucky must look for

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assistance elsewhere than in their native State; which, however, he had no doubt they could obtain; that *a country which was not worth defending, was not worth claiming*. The deliberations of the council on this letter of Clark's are unknown; but they may easily be conceived from the sagacity and patriotism, which shone so brilliantly in the government of Virginia, at whose head the great Henry then presided. On the receipt of this letter, Clark was sent for, and an order of council passed on the 23d of August, 1776, for conveying the gunpowder desired, to Pittsburg, "to be safely kept and delivered to Mr. George Rogers Clark, or his order, for the use of the said inhabitants of *Kentucki*." This is the first step in the long and affectionate intercourse, which has subsisted between Kentucky and her parent Commonwealth; and obvious as the reflection is, it may not be omitted, that on the transportation of five hundred weight of gunpowder, hung the connexion between Virginia and the splendid domain, which she afterwards obtained on the west of the Allegany mountains. To this compromise of the council, Clark, influenced by attachment to his native State, acceeded; and immediately wrote to his friends in Kentucky of his success, desiring them to transport the powder down the Ohio to Kentucky. This letter they never received.

At the fall session of the legislature of Virginia, Messrs. Jones and Clark laid the Kentucky petition before that body: they were of course not admitted to legislative seats; though late in the session, in despite of the exertions of Colonels Henderson and Campbell, they obtained the erection of the *county of Kentucky*, which then embraced the limits of the present State of that name. Thus, our political organization was principally obtained by the generous daring of George Rogers Clark, who must be ranked as the earliest *founder of the Commonwealth*. This measure gave it form and pressure, and entitled it, under the constitution of Virginia, to a representation in the legislature, as well as to a judicial and military arrangement. Clark and his associate having obtained these important benefits for the country, were preparing to come again to the interesting colony; when they heard that the supply of gun-

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powder, obtained with so much painful effort still lay at Pittsburg. Jones and himself then determined to return by that place, for an article so precious in the condition of the frontier. At fort Pitt, they found many Indians lurking about, apparently for the purpose of making treaties: but who, in reality were acting as spies upon the movements of our countrymen, whose intention to descend the Ohio, they seemed to suspect, and would apparently interrupt. In this state of things, our party resolved to prosecute their voyage without delay, and with no more than seven boatmen, with indefatigable exertions, pursued the whole way by Indians, they got safe to Limestone creek. They went up this small stream with their boat, and hiding their cargo in different places in the woods, along its banks, at considerable distances apart; they turned their boat adrift, and directed their course to Harrodstown, to procure a sufficient escort for the powder. On their way through the woods, the party came to a solitary cabin of Hingston's, on the west fork of Licking creek. While resting here, some men, who had been surveying, happened at the same place, and informed them, that as yet the Indians had not done much injury; and that Colonel John Todd was in the neighborhood with a small body of men; that if they could be met with, there would be sufficient force to escort the powder to its destination. Clark, however, with his usual promptitude, after having waited for some time in vain, for Colonel Todd, set off for Harrodstown, accompanied by two of the men, leaving the residue with Mr. Jones, to remain at Hingston's. Soon after Clark had departed, Colonel Todd arrived; and upon being informed of the military stores left at the river, thinking his force was now sufficient to effect their removal, he marched with ten men for this purpose. When they had reached the country about the Blue Licks, they met on the 25th of September, with an Indian party, which were following the trail of Clark and his companions; they attacked the whites with such vigor, as to route them entirely, having killed Jones, and some others, and took some prisoners. Fortunately for Kentucky, the prisoners proved true to their countrymen, and preserved the secret of the stores

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inviolate, while the party detached from Harrodstown, brought them safely to their over-joyed friends. On the 29th of December, a large body of Indians attacked M'Clellan's fort, on Elkhorn,* killed M'Clellan, and two others, which drove the residue of the people to Harrodstown. This necessarily produced great alarm; it was soon much increased by an attack of the Indians upon James Ray, his brother, and another man, who were clearing some land about four miles from Harrodstown, at the present residence of this venerable and distinguished pioneer. The hostile party consisting of forty-seven warriors under command of Blackfish, a celebrated chief, attracted by the noise of the axes, rushed upon the little party of choppers, killed the younger Ray, and took the third man prisoner. The elder Ray escaped by his uncommon swiftness of foot. So remarkable was this young woodsman for his running, that Blackfish mentioned to Boone the next year, when he took the latter prisoner at the Blue Licks, that some boy at Harrodstown had outrun all his warriors.

Fortunate it was for the infant fort, that Ray possessed such nimbleness of foot; for without his escape, the station might have been surprised in the same manner, in which the party had, at the Shawanee springs. By his information every thing was done to strengthen the fort, and prepare for the expected storm. On the next morning, the Indians with the precaution usual to them not to prosecute an expedition, immediately after any circumstance has happened, calculated to put an enemy on his guard; did not appear before the fort, until the next morning, on the 7th of March, 1777. The militia had been organized but two days before. The Indians began their attack by setting fire to an out cabin on the east side of the town; this, the men not believing to be the act of the enemy, rushed out of the fort to extinguish. The attempt was now made to intercept their return; our people retreated until they got to a piece of woods, which then covered the hill, now occupied by the court-house in Harrodsburg, where each took to a tree, or *treed*, as it was termed in the language of the times. In this conflict, one Indian was killed, and four of the whites were wounded,

* The site of Georgetown, Scott county, also called Royal Spring.

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one of whom died; they made good their retreat to the fort, and the Indians soon afterwards withdrew. During the year 1777, they collected in great numbers round this devoted place, so as to prevent any corn from being raised about the town. In this period of danger and scarcity, Ray, but seventeen years old, used to rise before day, and with one old horse, the only one left by the Indians of forty head brought to Kentucky by his father-in-law, Major McGary, proceeded as cautiously as possible to Salt river, riding in the water, as well as in the bed of some stream, on leaving the river, in order to conceal his route. When sufficiently out of hearing, he would kill his load of meat; this he would bring to the suffering garrison by night-fall: while elder hunters, stimulated by these boyish exploits, attempting the same enterprise, were killed by the Indians.

In the course of this summer, one McConnel was trying his gun near the fort at a mark, in company with Ray, when the former was suddenly shot dead. His companion following the direction of the shot, perceived the enemy; but while he was attempting to revenge the death of his friend, he found himself suddenly attacked by a large body of Indians, who had crept up unseen. For one hundred and fifty yards, Ray was exposed to their fire in making his retreat, which he accomplished with his usual speed. But when he approached the fort of Harrodsburg, the people did not dare to open the gate for his admission. In this most critical situation, pursued by a band of savages, and refused shelter by his friends, Ray had no other alternative, than to throw himself flat on the ground behind a stump, which was just large enough to protect his body. He lay in this situation for four hours, under the fire of the Indians, whose balls would every now and then throw up the ground upon him. Here he lay within seven steps of the fort wall, and his mother within sight of her son, in this perilous condition; still the enemy did not venture to come within fire from the fort. It was now that Ray, on the suggestion of the moment, hollowed out, "for God's sake dig a hole under the cabin wall, and take me in." Strange as the expedient was, it was immediately adopted, and the young hunter was introduced in this strange

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way; though not quite like the Grecians of old, once more to the friends, who so much depended on his arm, and by whom he was so much beloved.

During the fall of this year, in order to make up the deficiency arising from having raised no corn, the people of the fort determined to make a turnip patch, about two hundred yards north-west of the station; while clearing the ground, an Indian was shot at by the guard and the men retired. The next day the cattle were perceived to be disturbed, and snuffing the air about a small field in the furthest corner, that had been allowed to grow up in very high weeds. The presence of the enemy was instantly suspected; and that they were concealed there; so sure were the cattle to betray the neighborhood of Indians by their uneasiness, produced either at their sight, or by the smell of the Indian paint. Yet it was never known to be manifested at the sight of white men; although the latter might be exposed to all the same occasions of peculiar odor, contracted by killing the game, cooking and sleeping in the woods. This indication prompted Major George Rogers Clark, to turn the ambuscade upon the enemy. For this purpose some men were still kept in the turnip patch, nearest to the fort, working, and occasionally hollowing to their companions to come out to their work; while a party of men under Clark went back of the field, where they came upon the rear of the Indians lying concealed in the weeds. Four of the Indians were killed; one by Clark, another by Ray; the first he ever despatched. The white party then pursued the Indians until they came to the remains of a large Indian encampment, now deserted. Here they found within four hundred yards of the fort, down the creek, two rows of tents, with poles between for slinging their kettles, that might have accommodated five or six hundred Indians. From this camp the enemy had issued during the preceding summer to assail the stations, which they had done to their great discomfiture, and the destruction of their horses and cattle: the enemy had now abandoned their position, and the party which had just been pursued, was the last remnant of this great Indian force. It was on account of this action, Major

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Clark complimented General Ray with the gun of the Indian, the first ever killed by him; a compliment from such a source, well worthy of recollection in the life of any man; the rest of the Indian property discovered in the camp, was, as usual, divided by lottery among the captors.

Hitherto the war in Kentucky had been carried on by the perseverance and the gallantry of the backwoodsmen themselves, with little assistance from the power of Virginia, excepting that which was procured by the devotion of Messrs. Clark and Jones. The tremendous struggle of the Revolution, involving every thing dear to a free and generous people, demanded all the energies of the Commonwealth. The State had not disposable means to act on so remote a frontier; nor does the government of Virginia appear to have been distinctly aware, of the important diversion of the Indian force, which might be effected by supporting the exertions of Kentucky. As little did she perceive the rich acquisitions offered to her military ambition in the British posts in the western country. Yet every Indian engaged on the frontier of the Kentucky, was saved to the nearer frontier of the parent State. These combined views acquired greater weight with the progress of the Revolution, and the increasing population of Kentucky; they were particularly aided by the ardent and impressive representations of Major Clark. He had witnessed the rise and growth of this section of the country from its earliest buddings; he had penetrated its condition and its relations with the instinctive genius, which stamped him the most consummate of the western commanders. He had seen at a glance, that the sources of the Indian devastations were to be found in the British possessions of Detroit, St. Vincents, and Kaskaskia. The heart rending ravages spread by the barbarians of the western hemisphere, and which have again been so recently displayed in our own times, were stimulated by the ammunition, arms, and clothing supplied at these military stations. If they could be taken, the streams of hostility which had overflown Kentucky with horrors, would be dried up, and a counter influence established over the savages. Under the influence of these views, the Go-

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vernor and council of Virginia, in the year 1778, took into consideration the policy of an expedition, against the strong holds of her foes; though situated many hundreds of miles from the main seat of her population and resources. This expedition must be mainly attributed to the genius of Clark, who had foreseen its necessity during his visits to Kentucky. So strongly was he impressed with the importance of this movement, that in the summer of '77, he had dispatched two spies of the names of Moore and Dunn, to reconnoitre the situation of these remote posts of the enemy. These emissaries reported great activity on the part of the militia, as well as the most extended encouragement to the Indians in their barbarous depredations upon the Kentucky frontier; yet, notwithstanding the enemy had essayed every art of misrepresentation to prejudice the French inhabitants against the Virginians, by telling them that these frontier people were more shocking barbarians than the savages themselves, still the spies reported strong traces of affection for the Americans, among some of the inhabitants. Not that the spies, or any body else, were acquainted with the contemplated expedition, till it was ripe to be laid before the governor and council of Virgnia. To this body he determined to submit the matter; when, on the 1st of October, 1777, he left Kentucky. At this time he says, "every eye was turned towards me, as if expecting some stroke in their favor; some doubted my return, expecting I would join the army in Virginia. I left them with reluctance, promising them I would certainly return to their assistance, which I had predetermined." He remained a considerable time at Williamsburg, settling the accounts of the Kentucky militia, and, as he says, "making remarks on every thing I saw or heard, that could lead me to a knowledge of the disposition of those in power." During this time the genius of the Republic had achieved the victory of Saratoga, and the spell of British regulars, like that of British sailors and ships in more recent times, was broken. The spirits of Virginia may well be supposed to have partaken of the general triumph, and on the 10th of December, Clark opened the plan of the Illinois campaign to Governor Henry. At first the Go-

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vernor was captivated by the brilliant prospect of striking such a fatal blow against the enemy, and in the heart of their savage allies; yet a detachment on so distant a service, appeared hazardous and daring to an alarming degree; particularly as the secrecy indispensable to success, forbade the communication of the plan to the legislature. The Governor held several private conferences on this interesting measure, with several gentlemen of high character, who inquired minutely into Clark's plans, and particularly into his proposition, in case of repulse, (which seems to have been quite expected) to retreat to the Spanish possessions on the west side of the Mississippi. The result of these deliberations was, a full approbation of the scheme, and in order to encourage the men, these *patriotic gentlemen, like worthy sons of Old Virginia, pledged themselves by an instrument of writing, in case of success, to exert their influence to obtain from the legislature, a bounty of three hundred acres of land for every person in the expedition. The executive and his council, now entered so warmly into the scheme, that every thing was expedited with "very little trouble" to Clark. So that, on the 2d of January, 1778, he received two sets of instructions; one public, directing him to proceed to Kentucky for its defence; and the other secret, ordering an attack upon the British post at "*Kaskaski*." The humane and generous spirit in which these instructions of the immortal Henry were penned, will ever reflect honor, amidst the provocations of a relentless enemy, on the early councils of Virginia. They form a monument of durable glory in the Revolutionary annals of our parent State. Twelve hundred pounds (in depreciated paper it is presumed) were advanced to Colonel Clark, with suitable orders on the Virginia officer at Fort Pitt for ammunition, boats, and all other necessary equipment. Major William B. Smith was dispatched to the settlement on Holston, to recruit; as well as Captains Leonard Helm, of Fauquier, Joseph Bowman, of Frederick, William Harrod, and several others, in other quarters. It was desired by the government,

* George Wythe, George Mason, and Thomas Jefferson, in their letter to George Rogers Clark, Esq., January 3, 1778.

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that the troops should be raised west of the Blue Ridge, so as not to weaken the Atlantic defence. On the 4th of February, Colonel Clark set off, "clothed with all the authority" he says, "I could wish." At Fort Pitt, he met with some difficulties arising from the disputed dominion, which then agitated the friends of Pennsylvania and Virginia; many thought the detachment of troops to Kentucky, was a wanton dispersion and divison of strength. The secrecy of his real destination, and the ostensible one of Kentucky, led many to declare it better to remove the Kentuckians, than weaken the country by undertaking their defence. Little did these objectors know the innate vigor, the indomitable energy of the backwoodsmen of Kentucky, and of the west, when they talked of removing them like so many chattels. At this very time, Clark received letters from Kentucky, informing him of their increased strength since he had left them; and from Major Smith, that he had raised four companies for the expedition, among the people of the Holston settlements. This intelligence, together with the knowledge that Captains Helm and Bowman's companies would join him at Redstone, the present Brownsville, on the Monongahela, rendered Colonel Clark less strenuous in urging his levies about Pittsburg. It was late in the season before he could depart with three companies, and "a considerable number of families and private adventurers." The voyage was prosecuted as it required to be, with great caution; at the mouth of the Great Kenhawa, Colonel Clark was pressed by a Captain Arbuckle, commanding the fort at that point, to join him in pursuit of a party of two hundred and fifty Indians, who had attacked him the day before; and had now directed their course against the settlements on Greenbrier river. The temptation of success was great, but the importance of his own expedition was greater, and fortunately for his country, Clark knew his duty too well, and discharged it too faithfully, to be diverted from his purpose. He continued his course to the mouth of the Kentucky river; here he landed, and for some time thought of fortifying a post at this place; but looking to his more western destination, very judiciously abandoned his intention for a more desirable position at

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the Falls: where the craft of the river trade would be compelled to stop, in order to prepare for the passage of the Rapids, and which, without fortification, would be much exposed to the hostilities of the Indians. At the former place, Clark had the mortification to hear, that the company of Captain Dillard was the only one of Major Smith's men, who had arrived in Kentucky. He immediately wrote to Colonel Bowman, informing him of his intention to fix a post at the Falls; and that having an object in view of the greatest importance to the country, he desired Bowman to meet him at that place, with all the men recruited by Smith, and as many others, as could be spared from the interior stations. The detachment proceeded to the Falls, where he selected and fortified Corn Island, opposite to Louisville. On the arrival of Colonel Bowman's party, the forces of the country were found too weak, to justify taking many from Kentucky; Clark, therefore, engaged but one company, and part of another, from this quarter, expecting them to be replaced by the troops of Major Smith. Here Clark disclosed to the troops his real destination to Kaskaskia; and honorably to the gallant feelings of the times, the plan was ardently concurred in by all the detachment, except the company of Captain Dillard. The boats were, therefore, ordered to be well secured, and sentries were placed where it was supposed, the men might wade across the river to the Kentucky shore. This was the day before Clark intended to start; but a little before light, the greater part of Captain Dillard's company, with a Lieutenant whose name is generously spared by Colonel Clark, passed the sentinels unperceived, and got to the opposite bank. The disappointment was cruel, its consequences alarming; Clark immediately mounted a party on the horses of the Harrodsburg gentlemen, and sent after the deserters, with orders to kill all who resisted; the pursuers overtook the fugitives about twenty miles in advance; these soon scattered through the woods, and excepting seven or eight, who were brought back, suffered most severely every species of distress. The people of Harrodstown felt the baseness of the Lieutenant's conduct so keenly, and resented it with such indignation, that they would not for

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some time, let him or his companions, into the fort. On the return of this detachment from the pursuit, a day of rejoicing was spent between the troops about to descend the river, and those who were to return on a service, little inferior in danger and privation, the defence of the interior stations. The next day,* when the sun was in a total eclipse, the boats passed the Falls. This circumstance divided the men in their prognostications, but not quite with the terror and alarm we read of in ancient armies. All the baggage beyond what was necessary to equip the party in the barest Indian manner, was left behind, as the commander had determined, in order to mask his operations, to march to Kaskaskia by land, from the nearest point on the Ohio. Colonel Clark for some time meditated a blow against St. Vincents, but on reviewing his little body, consisting after a rigid selection of but four companies, under Captains Jo. Montgomery, L. Helm, Joseph Bowman, and William Harrod; he determined to prosecute the original object of his expedition. The facility of retreat to the Spanish possessions, as well as the more dispersed state of the French settlements in the Illinois, as it was called, seem to have had great weight in this selection. To this was added, a hope, that he might attach the French to the American interest, whose influence over the Indians throughout these extensive territories, was strengthened by time, and maintained by a tact and versatility, which have been undiminished for two centuries. To this day our interpreters, our spies, and some of the subordinate agents, are Frenchmen. Spaniards have always been much despised, and are so at this day on the Mexican frontier; the English are not much regarded, our own countrymen are dreaded, but the French are beloved. On the passage down the river, Colonel Clark most fortunately received a letter from Colonel John Campbell of Fort Pitt, informing him of the French alliance, a circumstance, as subsequent events shewed, of the utmost moment to the American arms. At the mouth of Tennessee, the party landed on an island, which is called †Baritaria, in the

* This must, by the catalogue of eclipses, have happened on the 24th of June, 1778, when there was a solar eclipse. See Ferguson's Tables.

† Possibly a mistake from the obscurity of the manuscript.

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memoir of Clark; a few hours after his arrival, a person of the name of John Duff, and a party of hunters, were stopped by the guard. These persons, though originally from the American settlements, had recently come from Kaskaskia, and communicated the most important intelligence: from them it was learned, that M. Rocheblave commanded at Kaskaskia; that the militia were kept in good order; spies were stationed on the Mississippi; and all Indians and hunters ordered to keep a sharp look out for the rebel Virginians. The fort, which commanded the town was kept in good order as a place of retreat; but without a regular garrison, and the military defence was attended to, as a matter of parade, rather than from any expectation of its necessity to guard against an attack. If this should be anticipated, the force of the place, they said, was capable of giving the Americans a warm reception; the inhabitants were led by the British to entertain the most horrid apprehensions of our countrymen, as more barbarous, and more to be dreaded, than the Indians themselves. But if we could surprise the place, these hunters thought, there would be no doubt of our capturing it; they offered their services to effect this result, and solicited to be employed, This offer was readily accepted, and the whole meeting proved a most essential service, in the absence of all intelligence from the enemy's country, since the return of the spies employed by Clark in the previous year. One portion of their information particularly pleased him, and which he determined to employ to promote his purposes; it was the dread and horror in which our countrymen were held by the inhabitants. In consequence of this sentiment, he thought the more violent the shock might be, which his arrival should produce, the stronger would be their sensibility to his lenity, so little to be expected from the barbarians they were represented. In fact, Colonel Clark determined to enlist this national apprehension in his service, and employ it as an auxiliary to his diminutive forces.

Every thing being ready for the march the boats dropped down a short distance above Fort Massac, (contracted from Massacre) where they were concealed; and the party marched

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with their commander at their head, sharing in every respect the condition of his men, in a north-west direction, through the present State of Illinois, for the ancient French village of Kaskaskia. This march was attended by little that was unusual in these times of privation, beyond the ordinary sufferings of such expeditions through the forests. Game and water were, however, scarce; but on the third day, John Saunders, the principal guide, got so bewildered, that he had forgotten all the features of the country. This excited immediate suspicion, and a general cry arose among the men, to put the traitor to death; he solicited permission of his Colonel to go into a prairie, which was full in view, to try and recover himself. His application was granted; but some men were sent with him to prevent his escape, and he was sternly told, that if he did not conduct the detachment into the hunters' road, which lead into Kaskaskia, from the east, and which he had frequently described and traveled, leading through a country not easily forgotten by a woodsman, he should surely be hung. After an hour or two spent in examining the neighborhood, the poor fellow discovered a spot which he perfectly recollected, and his innocence was established. On the evening of the 4th of July, 1778, the expedition reached within a few miles of the town, where it lay until dark, when the march was continued; a house was then taken possession of, about three quarters of a mile above the town, which lay on the opposite, or westerly side of the Kaskaskia river. Here it was learned, that the militia had a few days before been under arms; but no cause of real alarm having been discovered, at that time, every thing was quiet; that there was a "great number of men in the town; the Indians had, however, mostly gone." A sufficient quantity of boats for transportation of the troops was soon procured; two divisions of the party crossed the river, with orders to repair to different parts of the town; while Colonel Clark, with the third division, took possession of the fort (afterwards called Fort Clark) on this side of the river, in point blank shot of the town. Should this detachment meet with no resistance, upon a signal given, the other two parties were directed, to possess with a shout,

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certain quarters of the town; and to send persons who could speak French, through the streets to give the inhabitants notice, "that every man of the enemy, who should appear in them, would be shot down." These dispositions had the most complete success; the fort was taken; Clark entered it by *"a postern gate left open on the river side of the fortification," which was "shewn by a hunting soldier, who had been taken prisoner the evening before." The town, of about two hundred and fifty houses was surrounded, every avenue guarded to prevent communication of intelligence, and "in about two hours the inhabitants were disarmed," without one drop of bloodshed. During the night, our men were ordered to patrol the town with the utmost tumult and whooping, after the Indian fashion, while the inhabitants preserved the most profound silence. The artifice, however painful and alarming to their feelings, was, at least, one of the most innocent stratagems of war. M. Rocheblave, or Rocheblawe, as Mr. Jefferson has it, the British governor was taken in his chamber; but very few of his public papers could be secured, as they were secreted or destroyed, it was supposed by his wife. This lady is represented as presuming a good deal on the gallantry of our countrymen, by imposing upon their delicacy towards herself, for the purpose of screening the public property and papers, from the hands of the Americans. But better, ten thousand times better were it so, than, that the ancient fame of the sons of Virginia, should have been tarnished by—insult to a female. Although it was suspected that many important papers might be concealed, in the trunks of the Governor's lady, they were, however honorably respected, and not examined. During the night several persons were sent for, to obtain intelligence, but little information could be procured, beyond what had been already received, except that a considerable body of Indians lay at this time in the neighborhood of Cahokia, about sixty miles higher up the Mississippi; and that M. Cerre, (the father of the present Madame Auguste

* Judge David Todd, of Missouri, obligingly communicated this circumstance, from the papers of the late General Levi Todd, who acted as aid to Colonel Clark. Our countrymen were called *Bostoni* by the French, at this time.

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Chouteau,) of St. Louis, the principal merchant of Kaskaskia, was, at that time, one of the most inveterate enemies of the Americans. This gentlemen had left the town before Clark had captured it, and was now at St. Louis, on his way to Quebec, whence he had lately returned, in the prosecution of extensive commercial operations: his family, and an extensive assortment of merchandise were in Kaskaskia. By means of these pledges in his power, Colonel Clark thought to operate upon M. Cerre, whose influence was of the utmost consequence in the condition of the American interest, if it could be brought to be exerted in its favor. With the view of gaining this gentleman, a guard was immediately placed round his house, and seals placed on his property, as well as on all the other merchandise in the place. On the fifth, the troops were withdrawn from the town to different positions around it; during these movements, as all intercourse with the soldiers had been forbidden under heavy punishment, and even those who were sent for by Clark, had also been ordered to have no communication with the rest; distrust and terror overspread the town. In possession of an enemy, of whom the inhabitants entertained the most horrid apprehensions, and all intercourse either with one another, or with their conquerors sternly prohibited, the anticipations of the inhabitants might well be gloomy. In this state of things, after the removal of the troops, the people were permitted to walk about freely; when finding they were busy in conversation with one another, a few of the principal militia officers were apprehended by orders of Clark, and put in irons without assigning any reason, or suffering any defence. This immediately produced general consternation, and the worst consequences were expected from the enemy, whom their suspicions had invested with such terrors. Yet these measures were taken from no wanton cruelty, for of all men, Colonel Clark enjoyed the mildest and most affectionate disposition, and he severely felt, as he says, every hardship, he believed himself compelled to inflict. After some time M. Gibault, the priest of the village, got permission, with five or six elderly gentlemen, to wait on Colonel Clark. Shocked as the citizens had been by the sudden cap-

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ture of their town, and by such an enemy as their imaginations had painted, this party were still more evidently shocked when they entered Clark's quarters, at the appearance of him and his officers. Their clothes dirty and torn by the briars, their others left at the river, the appearance of the chiefs of this little band was indeed frightful and savage, as Clark himself admits, to any eyes. How much more so to *this* deputation, may be easily conceived by those who are acquainted with the refinement and delicacy of the ancient French. It was some time after entering the room where Clark and his officers were seated, before they could speak; and not then, until their business was demanded; they asked which was the commander; so effectually had this backwoods expedition confounded the differences of rank. The priest then said, that the inhabitants expected to be separated, perhaps never to meet again; and they begged through him, to be permitted to assemble in the church, to take leave of each other. Clark, aware they suspected their very religion to be obnoxious to our people, carelessly told him, that he had nothing to say against his church, it was a matter Americans left for every man to settle with his God; that the people might assemble at church if they would; but at the same time if they did, they must not venture out of town. Some further conversation was attempted on the part of the Kaskaskia gentlemen, but it was repelled by saying there was no longer leisure for further intercourse, in order that the alarm might be raised to its utmost height. The whole town assembled at the church, even the houses were deserted by all who could leave them. Orders were honorably given to prevent any soldiers from entering the vacant buildings; the people remained in the church for a considerable time, after which the priest, accompanied by several gentlemen, waited on Colonel Clark, and expressed in the name of the village, "their thanks for the indulgence they had received." The deputation then begged leave, at the request of the inhabitants, to address their conqueror on a subject, which was dearer to them than any other; they were sensible, they said, "that their present situation was the fate of war, and they could submit to the loss of their property; but

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they solicited that they might not be separated from their wives and children; and that some clothes and provisions might be allowed for their further support." These gentlemen assured Colonel Clark that their conduct had been influenced by their commandants, whom they considered themselves bound to obey, nor were they sure, that they understood the nature of the contest between Great Britain and the United States; as the opportunities of this remote region were very unfavorable to accurate information. Indeed many of the inhabitants had frequently expressed themselves in favor of the Americans, as much as they durst. The utmost hope of this close repetition of the case of the citizens of Calais, with ropes about their necks, at the mercy of the third Edward of England, was, for favor to their wives and children. In this distress of the villagers, Clark, who had now wound up their terrors to the desired height, resolved to try the force which the lenity his whole heart had all along intended to grant, might receive from the sudden contrast of feelings. For this purpose, he abruptly asked these gentlemen, "do you mistake us for savages? I am almost certain you do, from your language. Do you think that Americans intend to strip women and children, or take the bread out of their mouths?" "My countrymen," said Clark, "disdain to make war upon helpless innocence; it was to prevent the horrors of Indian butchery upon our own wives and children, that we have taken arms and penetrated into this remote strong hold of British and Indian barbarity; and not the despicable prospect of plunder. That now the king of France had united his powerful arms with those of America, the war would not, in all probability, continue long; but the inhabitants of Kaskaskia were at liberty to take which side they pleased, without the least danger to either their property or families. Nor would their religion be any source of disagreement; as all religions were regarded with equal respect in the eye of the American law, and that any insult which should be offered it, would be immediately punished. And now, to prove my sincerity, you will please inform your fellow-citizens, that they are quite at liberty to conduct themselves as usual, without the least ap-

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prehension; I am now convinced from what I have learned since my arrival among you, that you have been misinformed and prejudiced against us by British officers; and your friends who are in confinement shall immediately be released." The agitation and joy of the village seniors, upon hearing this speech of Clark, may well be conceived; they attempted some apology for the implied imputation of barbarians, under the belief, that the property of a captured town belonged to the conquerors; Clark gently dispensed with this explanation, and desired them to relieve the anxieties of the inhabitants immediately, requiring them to comply strictly with the terms of a proclamation, which he would shortly publish. The contrast of feeling among the people upon learning these generous and magnanimous intentions of their conquerors, verified the sagacious anticipations of Colonel Clark. In a few moments the mortal dejection of the village was converted into the most extravagant joy; the bells were set a ringing, and the church was crowded with the people, offering up thanks to Almighty God for their deliverance from the horrors they had so fearfully expected. Perfect freedom was now given to the inhabitants to go or come as they pleased; so confident were our countrymen, that whatever report might be made, would be to the credit and success of the American arms. Some uneasiness was still felt respecting Cahokia, whose capture, Colonel Clark determined to attempt, and gain in the same way, if possible, as he had taken Kaskaskia. For this purpose, Major Bowman was ordered to mount his company on horses, with part of another, proceed to Cahokia, and take possession of the village for the State of Virginia. Upon this intention being known, several of the Kaskaskia gentlemen very handsomely offered their services to join our men, and effect any thing Colonel Clark desired. They assured him, that the people of Cahokia were their relations and friends; and they entertained no doubt of prevailing upon them to unite in the same political attachments, so soon as the circumstances in which they were placed should be fully explained to them. This offer Clark readily embraced; it indeed very fortunately presented itself, in the weakness of his small

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corps; and a detachment, little inferior in strength to that which had invaded the country, departed for this new conquest; if such acquisitions by mutual consent, can well be called so. The French party were commanded by their former militia officers, and all set off in high spirits at this new mark of confidence under the free government of Virginia. On the 6th of July, the expedition reached its destination before it was discovered by the inhabitants; their surprise, as might well be expected, was great, at this visit in hostile attitude. The cry of the Big Knife (the formidable appellation of the Virginians at that time) being in town, spread dreadful alarm among the helpless part of the little community; this, however, was soon allayed, when the gentlemen from Kaskaskia had an opportunity of narrating what had taken place at their own village, and the conduct of the Americans. The alarm of the people was soon converted into huzzas for freedom and the Americans; and Major Bowman took possession of the British fort of Cahokia. The inhabitants in a few days took the oath of allegiance, and every thing promised the utmost harmony. This visit of our countrymen soon dispersed a body of Indians, who were encamped in the neighborhood of Cahokia, at that time a place of considerable trade.

CHAPTER IV.

Plan against St. Vincents—Thanks of Virginia—St. Vincents revolts from the British—M. Girault—Illinois county—Negotiations with New Orleans—Indian negotiations.

But though Colonel Clark had met with a success so much beyond his means, and almost beyond his expectations; although the country was entirely subjected, and even attached, to the American government, yet his uneasiness was great. He was fully aware of the critical delicacy of his situation, and the necessity of exerting all the address he was master of, to maintain his position with service to his country, and honor to himself. A close understanding was cultivated with the Spanish

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officers on the opposite side of the Mississippi; as every influence was required to counteract the extended agency and control of the British; who had distributed the bloody belt and hatchet from Lake Superior to Detroit, and the Mississippi. In this long chain of intrigue with the Indians, post St. Vincents formed an important link; not only from the warlike character of the adjacent tribes, but from their contiguity to Kaskaskia, and the settlements of Kentucky. Yet it was utterly beyond the force at the command of Clark, "joined by every man in Kentucky;" he, therefore, resorted to other means. The American soldiers were instructed to speak of the Falls of Ohio, as the head quarters of the army, from which the present troops were only a detachment; that reinforcements were daily expected from that point, which was fortifying, and that when they arrived, more extensive military movements would take place. Some such artifice was necessary to excuse the apparent rashness of invading the Illinois, with so small a force. Courts of civil jurisdiction were likewise established by Clark, which were held by French judges, freely chosen by the people, leaving an appeal to Clark. About this time, M. Cerre, who was mentioned before, uneasy that his family at Kaskaskia should be the only one placed under a guard, and fearful of venturing into the power of the American officer without a safe conduct; procured the recommendation of the Spanish Governor at St. Louis, as well as the commandant at St. Genevieve, supported by the influence of the greater part of the citizens, for the purpose of obtaining this security. It was all in vain; Colonel Clark peremptorily refused it; and intimated that he wished to hear no more such applications; that he understood M. Cerre was "a sensible man," and if he was innocent of the charge of inciting the Indians against the Americans, he need not be afraid of delivering himself up. This backwardness would only increase the suspicion against him. Shortly after this expression of Clark's sentiments, M. Cerre, to whom they were no doubt communicated, repaired to Kaskaskia, and without visiting his family, immediately waited on Colonel Clark; who informed him that the crime with which he stood charged was encouraging the In-

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dians in their murders and devastations on our own frontiers. An enormity, whose perpetrators, continued the American commander, it behooved every civilized people to punish, whenever they got such violaters of the laws of honorable warfare within their power. To this accusation, M. Cerre frankly replied, that he was a mere merchant, and had never been concerned in affairs of State beyond what the interests of his business required; moreover, his remote position had prevented him from understanding the merits of the war, now raging between the United States and Great Britain. He defied, he said, any man to prove, that he had encouraged the Indian barbarities; while many could be produced, who had heard him express his disapprobation of all such cruelties; though, at the same time, it was necessary to inform Colonel Clark, that there were numbers indebted to him, who might, by his ruin, seek to discharge their pecuniary obligations to him. In fine, this eminent French merchant declared his willingness to support the strictest inquiry into the only heinous charge against him. This was every thing the American officer required; he desired M. Cerre to retire into another room, while he sent for his accusers; they immediately attended, followed by the greater part of the inhabitants. M. Cerre, was summoned to confront them, the former immediately shewed their confusion at his appearance; the parties were told by Colonel Clark, that he had no disposition to condemn any man unheard; that M. Cerre was now present, and he (Clark) was ready to do justice to the civilized world by punishing him if guilty of inciting the Indians to commit their enormities on helpless women and children. The accusers began to whisper to one another and retire: until but one was left of six or seven at first; this person was asked for his proof, but he had none to produce, and M. Cerre was honorably acquitted, not more to his own satisfaction, than to that of his neighbors and friends. He was then congratulated by Colonel Clark upon his acquittal, and informed, that although his becoming an American citizen, would be highly acceptable, yet if he did not sincerely wish to do so, he was perfectly at liberty to dispose of his property, and to remove elsewhere. Cerre de-

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lighted at the fair and generous treatment he had met with, immediately took the oath of allegiance and became a "most valuable" friend to the American cause.

So successful was the management of Clark, that whether he bribed, or whether he punished, both methods were made conducive to the public interest. In this case he seems to have kept up an appearance of rigor for the very opportunity of enhancing the indulgence, he wished and determined to exercise: reserve in favors, was a common feature of his policy. As an exhibition of Colonel Clark's tact in governing under the critical circumstances in which he was placed, this detail has been thought necessary. The narration has now arrived at the complete reduction of the French settlements, in the present State of Illinois; not more by the force of arms than by the adroit policy of the American commander, and the good disposition of the inhabitants. The American government, too, was then in alliance with their ancient countrymen, whose dominion, no doubt, still clung affectionately round their hearts. In this way was reduced the ancient town of Kaskaskias, which had been settled two years before the city of Philadelphia, now flourishing so nobly under the auspices of American liberty; as distinguished for her fame in learning and in the arts, as she is renowned for her virtues and opulence. While to exhibit the fluctuating condition of things, Kaskaskia, her predecessor planted under the protection of a powerful monarchy, numbers but ninety-six persons,* and is almost a deserted village, filled with ruins of the nicest masonry. Colonel Clark, with his brave officers and men, on the 23d of November, 1778, was voted the thanks of the House of Delegates, "for their extraordinary resolution and perseverance in so hazardous an enterprise, and for the important services thereby rendered their country."

Post St. Vincents still continued to occupy the thoughts of Clark, as a point of great importance to the safety of his present position, and to the extension of the Virginia dominion. "It was never" he says, "out of my mind;" it had indeed occupied his thoughts; it has been seen in his first descent down the Ohio,

* Census of 1830.

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and was only relinquished at that time from his weakness. His early inclinations were revived by his success at Kaskaskia, and he sent for M. Gibault, the Roman Catholic priest of his village, as well as that of St. Vincents. This gentleman, who subsequently received the public thanks of Virginia, for his distinguished services, had been steadily attached to the American cause; he readily gave Colonel Clark every information he desired; told him that Governor Abbot had lately gone on business to Detroit, and that a military expedition from the Falls against St. Vincents, which Clark pretended to meditate, was scarcely necessary. He indeed offered, if it met the approbation of Colonel Clark, to "take the business on himself, and he had no doubt of his being able to bring that place over to the American interest without" he said, "my being at the trouble of marching against it." Nor is it unfair to believe, that this patriotic priest must have taken into consideration the interests of his parishioners, by endeavoring to save them, if possible, from the chances of military spoil and violence.

The generous and equal spirit which the ancient church of Rome had so rightfully, yet so rarely has met at the hands of Protestant conquerors, and the benificent administration of Clark, all united no doubt, to propogate the American influence, and extend its arms. To these offers of M. Gibault, Clark most readily acceded; for it was the fondest wish of his heart, yet he scarcely ventured to believe he should realize it; and, moreover, at the desire of the clergyman, a Dr. Lafont was associated as a temporal member of the embassy. The principal charge was, however, in the hands of M. Gibault. On the 14th of July, the French gentlemen, accompanied by a spy of Clark's, an additional security which he seems scarcely ever to have neglected in his enterprises, set off for St. Vincents, or *O. Post, as it was very often called. After full explanations of the state of affairs between the priest and his flock, in two or three days, the inhabitants threw off the British government, and assembling in a body at the church, they, in the most solemn manner, took the oath of allegiance to the Commonwealth of Virginia.

* A corruption of Au Poste.

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A commandant was elected, and the American flag immediately displayed over the fort, to the astonishment of the Indians. Thus again fell another of the French villages established about 1735, owing to the pure good will of the inhabitants towards the American government; and another barrier of counteracting influence over the barbarous hostilities of the Indians, was gained for Kentucky. The savages were told by their French friends, "that their old Father, the King of France, was come to life again, and was mad with them for fighting for the English; that if they did not wish the land to be bloody with war, they must make peace with the Americans."

About the 1st of August, M. Gibault and party, returned with the joyful intelligence, of having peaceably adjusted every thing at St. Vincents in favor of the American interest; no less to the astonishment of Clark, than to his gratification, and that of the inhabitants of Kaskaskia. A new source of perplexity now opened itself on Clark; it was the expiration of the three months for which his troops had been enlisted. But the discretionary powers so wisely ledged with an officer acting on so remote a stage, and under such embarrassing difficulties, determined him not to divest himself of the only American power, on which he could rely upon any emergency; and to strain his authority, for the preservation of that interest, for which it was conferred upon him. He, therefore, re-enlisted his men upon a new footing, raised a company among the native inhabitants, commanded by their own officers, established a garrison at Kaskaskia under the command of Captain Williams, and another at Cahokia, under that of Captain Bowman. Colonel William Linn, who had accompanied the expedition as a volunteer, now took charge of the troops who wished to return, and was the bearer of orders from Colonel Clark, to establish a fort at the Falls of Ohio. This order was executed by building a stockade fort at the termination of the present Twelfth street, on the easterly side of the large ravine, that opens to the river at that point.* Here was planted the

* The fort here mentioned was, in 1782, succeeded by a larger one, built by the regular troops, assisted by the militia from all the settled parts of the *district*. It was situated be-

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thrifty germ of Louisville, now the emporium of Kentucky, and which seems fairly destined to grow with the countless prosperity of this great republic, with whose remotest commerce and continued union, she is vitally connected. Captain John Montgomery was dispatched to Richmond, in charge of M. Rocheblave, the British commandant of Kaskaskia.

In regard to this officer, who expressed himself with great bitterness of the Americans, and the natives who had sided with them, Colonel Clark exerted himself very much, to procure a restoration to Mrs. Rocheblave, of his slaves, that had been seized as public plunder. This was attempted by inviting him to a dinner with some of the officers, as well as with his acquaintance, where this restitution was, it seems, to have been offered; but it was entirely frustrated by the violent and insulting language of the former commandant; he called them a parcel of rebels, and provoked such indignation that he was immediately sent to the guard house; all further thoughts of saving his slaves were now abandoned. They were subsequently sold for the amount of five hundred pounds, and the proceeds divided among the troops as prize money. The Governor of Virginia was informed of the whole of Clark's proceedings, and the appointment of a civil commandant was desired by him, who should take charge of the political affairs of this secluded portion of the Commonwealth. In consequence of this recommendation, an act was passed in October, 1778, establishing *the county of Illinois*, and embracing within its boundary all the chartered limits of Virginia, west of the Ohio river. There was also authorized the raising of a regiment of five hundred men, and the opening communications with New Orleans for their support.

tween the present Sixth and Eighth streets, on the northern side of Main street, immediately on the bank of the river. In honor of the third republican Governor of Virginia, the fort was called Fort Nelson. Seventh street passed through the first gate opposite to the head quarters of General Clark. The principal military defence in this part of the country deserves a few more particulars. It contained about an acre of ground, and was surrounded by a ditch eight feet deep and ten feet wide, intersected in the middle by a row of sharp pickets; this ditch was surmounted by a breast work of log pens or enclosures, filled with the earth obtained from the ditch, with pickets ten feet high planted on the top of the breast work. Next to the river, pickets alone were deemed sufficient, aided by the long slope of the river bank. Some of the remains of these pickets were dug up in the summer of 1832, in excavating the cellar of Mr. John Love's stores on Main street opposite to the *Louisville Hotel*. There was artillery in the fort, particularly a double fortified brass piece, which was captured by Clark at Vincennes. This piece played no inconsiderable part in the military operations of this period, insignificant as it may appear to the eyes of a regular military critic.

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Colonel John Todd, who afterwards lost his life with so much regret, at the battle of the Blue Licks, received the appointment of civil commandant and Lieutenant Colonel of the county; a mark of much honorable confidence in a new and distant province of Virginia. About the middle of August, Captain Leonard Helm was appointed by Colonel Clark commandant at St. Vincents, and "agent for Indian affairs in the department of the Wabash." This officer was particularly recommended to Clark for his knowledge of the department, and by the general prudence of his character. As Clark intended to place a strong garrison at this post, when the reinforcements, which he expected from Virginia should arrive, Captain Helm was made fully acquainted with his plans, and received his utmost confidence.

Near the post of St. Vincents, there was a chief by the name of Tobacco's son whose name appears in the deed to the Wabash Company in 1775, as Tabac.* This chief was complimented by his countrymen with the title of the Grand Door of the Wabash, as the Great Pontiac, or Pondiac, used to be called the Grand Door of St. Joseph's; and nothing of importance respecting the Wabash country was undertaken without the consent of the former chief. To conciliate him and win over his influence, Captain Helm was instructed to use every exertion: messages had indeed been interchanged by Colonel Clark with this chief, through M. Gibault, on his late mission. This intercourse was renewed by Captain Helm, soon after his arrival at St. Vincents, where he was received by acclamation on the part of the people. In an Indian council opened by the American agent with the Grand Door, he delivered him a friendly talk from Colonel Clark, inviting him to unite with the Big Knife, and his old Father, the king of France. To this letter, with the usual circumspection of the Indian character, the chief declined giving an answer, until he had assembled his councillors; although he was glad to see one of the Big Knife chiefs. It was true, he had fought together with the English, yet he had thought they always looked gloomy; in all this

* Land Law of the United States, 946.

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intercourse, the Grand Door observed the ceremony of the most courtly dignity, in which he was exactly followed by Captain Helm; so that it was several days before the council was concluded. At length Captain Helm was invited to attend a meeting of the chiefs, in which Tobacco's son informed him, that "the sky had been very dark with the war between the Big Knife and the English; but now it was cleared up. The Big Knife was in the right, and perhaps if the English conquered them, they might serve the Indians in the same way." Tobacco then jumped up, struck his breast, and said, "he had always been a man and a warrior, and now he was a Big Knife, and would tell the red people to bloody the land no more for the English;" he then shook Captain Helm by the hand, and his example was followed by all his chiefs to the great advantage of the whites. This chief is said to have remained a true friend to the Americans, until his death; which happened about two years after, when, at his desire, he was buried with the honors of war, near the fort of Cahokia. The conduct of Tobacco had a wide influence over the chiefs on the Wabash as high as the Weantinon, Ouitanon, or old Wea towns, all of whom followed the example of their Grand Door, in making peace with the Americans. These negotiations, together with others equally important, effected by Colonel Clark at Cahokia, in a short time undermined the British influence through a large portion of these regions. The co-operation of the French interest was essentially productive of these valuable results; the Indians implicitly confided in their representations, and through them, the Indians became thoroughly alarmed at the power of the Americans. The treaties held by Clark commenced about the 1st of September, and were conducted with a dignity and efficiency, as well as attended with such remarkable circumstances as to deserve a place in this history.

Colonel Clark had always thought the policy of inviting the Indians to treat, was founded in a mistaken estimate of their character; they always interpreted, he believed, such invitations as evidences either of fear or weakness, or both. He, therefore, studiously avoided every invitation of the sort; and

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waited for the Indians to request a treaty; while he fought them fiercely and energetically until they did so. He had, moreover, made himself intimately acquainted with the French and Spanish modes of treating the Indians, and had long been devoted to the study of the Indian character. In consequence of this, he determined to guard against spoiling the Indians, as had been too much the case with the English at treaties; and to use the strictest reserve, and grant presents with a niggardly hand, as wrung from him, rather than as spontaneous and willing gratifications. The ceremonies of this first and ancient council of our countrymen, with these remote sons of the forest, are worth recording. The various parties were assembled, white and red; the chief who was to open the council, as the Indians were the solicitors, advanced to the table at which Colonel Clark was sitting, "with the belt of peace in his hand, another with the sacred pipe; and a third, with fire to kindle it; after the pipe was lighted, it was presented to the heavens, then to the earth, and completing a circle, was presented to all the spirits, invoking them to witness what was about to be done. The pipe was now presented to Colonel Clark, and afterwards to every person present." After these formalities the speaker addressed himself to the Indians as follows: "Warriors, you ought to be thankful that the Great Spirit has taken pity on you, has cleared the sky, and opened your ears and hearts, so that you may hear the truth. We have been deceived by bad birds flying through the land, (meaning the British emissaries;) but we will take up the bloody hatchet no more against the Big Knife; and we hope, that as the Great Spirit has brought us together for good, as he is good, so we may be received as friends; and peace may take the place of the bloody belt." The speaker then threw in the middle of the room, the bloody belt of wampum, and flags, which they had received from the British, and stamped upon them in token of their rejection. To this address, Clark very guardedly and distantly replied, that "He had paid attention to what had been said, and would the next day give them an answer, when he hoped the hearts of all people would be ready to receive the truth; but he recom-

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mended them to keep prepared for the result of this council, upon which their very existence as nations depended. He desired them not to let any of our people shake hands with them, as peace was not yet made; and it was time enough to give the hand, when the heart could be given also. An Indian chief replied, that "such sentiments were like men, who had but one heart, and did not speak with a forked tongue." The council then rose until the next day, when Clark delivered the following address to the assembled Indians, which is taken literally from the memoir of Colonel Clark. "Men and warriors: Pay attention to my words. You informed me yesterday, that the Great Spirit had brought us together, and that you hoped, that as he was good, it would be for good. I have also the same hope, and expect that each party will strictly adhere to whatever may be agreed upon, whether it shall be peace or war; and henceforward prove ourselves worthy of the attention of the Great Spirit. I am a man and a warrior, not a counsellor; I carry war in my right hand, and in my left, peace. I am sent by the Great Council of the Big Knife, and their friends, to take possession of all the towns possessed by the English in this country, and to watch the motions of the Red people: to bloody the paths of those who attempt to stop the course of the river; but to clear the roads from us to those that desire to be in peace; that the women and children may walk in them without meeting any thing to strike their feet against. I am ordered to call upon the Great Fire for warriors enough to darken the land, and that the Red people may hear no sound, but of birds who live on blood. I know there is a mist before your eyes; I will dispel the clouds, that you may clearly see the causes of the war between the Big Knife and the English; then you may judge for yourselves, which party is in the right; and if you are warriors, as you profess yourselves to be, prove it by adhering faithfully to the party, which you shall believe to be entitled to your friendship, and not shew yourselves to be squaws.

"The Big Knife is very much like the Red people, they don't know how to make blankets, and powder, and cloth; they buy these things from the English, from whom they are sprung.

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They live by making corn, hunting and trade, as you and your neighbors, the French, do. But the Big Knife daily getting more numerous, like the trees in the woods, the land became poor, and hunting scarce; and having but little to trade with, the women began to cry at seeing their children naked, and tried to learn how to make clothes for themselves; soon made blankets for their husbands and children; and the men learned to make guns and powder. In this way we did not want to buy so much from the English; they then got mad with us, and sent strong garrisons through our country (as you see they have done among you on the lakes, and among the French;) they would not let our women spin, nor our men make powder, nor let us trade with any body else. The English said, we should buy every thing from them, and since we had got saucy, we should give two bucks for a blanket, which we used to get for one; we should do as they pleased, and they killed some of our people, to make the rest fear them. This is the truth, and the real cause of the war between the English and us; which did not take place for some time after this treatment. But our women became cold and hungry, and continued to cry; our young men got lost for want of counsel to put them in the right path. The whole land was dark, the old men held down their heads for shame, because they could not see the sun, and thus there was mourning for many years over the land. At last the Great Spirit took pity on us, and kindled a great council fire, that never goes out, at a place called Philadelphia; he then stuck down a post, and put a war tomahawk by it, and went away. The sun immediately broke out, the sky was blue again, and the old men held up their heads, and assembled at the fire; they took up the hatchet, sharpened it, and put it into the hands of our young men, ordering them to strike the English as long as they could find one on this side of the great waters. The young men immediately struck the war post, and blood was shed: in this way the war began, and the English were driven from one place to another, until they got weak, and then they hired you Red people to fight for them. The Great Spirit got angry at this, and caused your old Father, the French king, and other great

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nations to join the Big Knife, and fight with them against all their enemies. So the English have become like a deer in the woods; and you may see that it is the great Spirit, that has caused your waters to be troubled; because you have fought for the people he was mad with. If your women and children should now cry, you must blame yourselves for it, and not the Big knife. You can now judge who is in the right; I have already told you who I am; here is a bloody belt, and a white one, take which you please. Behave like men, and don't let your being surrounded by the Big Knife, cause you to take up the one belt with your hands, while your hearts take up the other. If you take the bloody path, you shall leave the town in safety, and may go and join your friends, the English; we will then try like warriors, who can put the most stumbling blocks in each other's way, and keep our clothes longest stained with blood. If, on the other hand, you should take the path of peace, and be received as brothers to the Big Knife, with their friends, the French, should you then listen to bad birds, that may be flying through the land, you will no longer deserve to be counted as men; but as creatures with two tongues, that ought to be destroyed without listening to any thing you might say. As I am convinced you never heard the truth before, I do not wish you to answer before you have taken time to counsel. We will, therefore, part this evening, and when the Great Spirit shall bring us together again, let us speak and think like men with but one heart and one tongue." The next day after this speech, a new fire was kindled with more than usual ceremony, and the Indian speaker came forward, and said, "They ought to be thankful that the Great Spirit had taken pity on them, and opened their ears and hearts to receive the truth. He had paid great attention to what the Great Spirit had put into my heart to say to them. They believed the whole to be the truth, as the Big Knife did not speak like any other people they had ever heard. They now saw they had been deceived, and that the English had told them lies, and that I had told them the truth; just as some of their old men had always told them. They now believed, that we were in the right, and as the Eng-

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lish had forts in their country they might, if they get strong enough, want to serve the Red people, as they had treated the Big Knife.

"The Red people ought, therefore, to help us, and they had with a cheerful heart taken up the belt of peace, and spurned that of war; they were determined to hold the former fast, and would have no doubt of our friendship from the manner of our speaking, so different from that of the English. They would now call in their warriors, and throw the tomahawk into the river, where it could never be found; they would suffer no more bad birds to fly through the land disquieting the women and children. They would be careful to smooth the roads for their brothers, the Big Knife, whenever they might wish to come and see them.

"Their friends should hear of the good talk I had given them, and they hoped I would send chiefs among them with my eyes, to see myself that they were men, and strictly adhered to all they had said at this great fire, which the Great Spirit had kindled at Cahokia, for the good of all people who would attend it."

The pipe was again kindled, and presented to all the spirits, as witnesses of the transactions; it was smoked, and the council concluded by shaking hands among all the parties, White and Red. In this manner, with very little variety, treaties were concluded with many tribes, and in all with a dignity and importance in their eyes, little inferior, to that of the alliance between the United States and France, in ours.

Colonel Clark adhered resolutely to a determination of not appearing to carress them; and he even apologized for making the few presents he did confer, by attributing them to the great way they had traveled, having expended their ammunition, and worn out their moccasons and leggins. The Indian tribes were generally so much alarmed, that the conclusion of peace, notwithstanding Clark's reserve and disdain, gave them perfect satisfaction. This state of mind was confirmed by the report of the spies whom Colonel Clark kept among all his new allies; as well as the less doubtful nations. So well consolidated was his influence, that a single soldier could be sent in safety among

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the Indians, through any part of the Wabash and Illinois country, to the heads of the waters discharging themselves into the lakes, and into the Mississippi. Here the British still maintained their influence; indeed many tribes were divided between them and the Americans. Such a sudden and extensive change among the Indians in our favor, is to be mainly attributed to the friendly dispositions of the French traders and agents, supported however, by the stern and commanding influence of Colonel Clark. It required all his tact, united with the control and co-operation of the French, to preserve that impression, which he had made at first, while at the head of so inadequate a force.

Accordingly, the prospect of reinforcements from the Falls was constantly held out, and every means adopted to attach our new fellow-citizens to the American government. No fees were exacted by the commanding officers, or in the weekly courts which were occupied by the business and disputes of the people; a contrast most favorable to American influence. The friendly correspondence with the Spanish government, and the permission of some trade with agents, even from Canada, all contributed to maintain a controling influence over the savages.

An incident occured during the Indian negotiations of no little romantic character. A party of Indians, composed of stragglers from various tribes, by the name of Meadow Indians, who had accompanied the other tribes, had been promised a great reward if they would kill Colonel Clark. For this purpose, they had pitched their camp about a hundred yards from Clark's quarters; and about the same distance in front of the fort, on the same side of Cahokia creek, with the one occupied by the Americans. This creek was about knee deep at the time of the transaction, and a plot was formed for some of these Indians to pass the creek after night, fire their guns in the direction of the Indians on the other side of the creek, and then fly to Colonel Clark's quarters; where they were to seek admission, on pretence of fleeing from their enemies, and put Colonel Clark and the garrison to death. About one o'clock in the morning, while Colonel Clark was still awake with the multiplied cares of his extraordinary situation, the attempt was made; and the

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flying party having discharged their guns, so as to throw suspicion on the other Indians; came running to the American camp for protection, as they said, from their enemies who had attacked them from across the creek. This, the guard which proved to be in greater force than was anticipated, prevented by presenting their peices at the fugitives; who were compelled to return to their own camp. The whole town and garrison were now immediately under arms, and these Indians, whom the guard had recognized by the moonlight, were sent for, and on being examined, they declared it was their enemies, who had fired upon them from across the creek; and that they had sought shelter among the Americans. Some of the French gentlemen who knew these Indians better than the new conquerors, called for a light, and discovered their moccasons and leggins to be quite wet and muddy, from having passed the creek, over to the friendly camps. This discovery quite confounded the assassins; and as there were a great many Indians of other tribes in town, Clark thought the opportunity favorable to convince them of the strictest union between the Americans and the French; he, therefore, surrendered the culprits to the French, to do what they pleased with them. Secret intimations were, however, given, that the chiefs ought to be sent to the guard house in irons; which were immediately executed. In this manacled condition, they were brought every day into the council; but not suffered to speak until all the other business was transacted; when Colonel Clark ordered their irons to be taken off, and told them, "every body said they ought to die for their treacherous attempt upon his life, amidst the sacred deliberations of a council. He had determined to inflict death upon them, for their base attempt, and they themselves must be sensible that they had justly forfeited their lives; but on considering the meanness of watching a bear and catching him asleep, he had found out that they were not warriors, only old women, and too mean to be killed by the Big Knife. But as you ought to be punished for putting on a breech cloth like men, they shall be taken away from you, plenty of provisions shall be given you for your journey home, as women don't know how to hunt, and during your stay

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you shall be treated in every respect as squaws." Then, without taking any further notice of these offenders, Colonel Clark turned off and began to converse with other persons: this treatment appeared to agitate the offending Indians to their very hearts. In a short time one of their chiefs arose with a pipe and belt of peace, which he offered to Clark, and made a speech; but at that time he would not suffer it to be interpreted, and a sword lying on the table, he took it up and indignantly broke the pipe, which had been laid before him, declaring, the Big Knife never treated with women. Several chiefs of other tribes now interfered to procure the pardon of the Meadow Indians, and to solicit Colonel Clark to pity the families of these men, and grant them peace. Still the American officer profoundly alive to the vulnerable features of the Indian character, told them, "the Big Knife had never made war upon these Indians; and that whenever Americans came across such people in the woods, they commonly shot them, as they did wolves, to prevent their eating the deer." This mediation having failed, the offending tribe appeared busy in conversation among themselves; when suddenly two of their young men advanced into the middle of the floor, sat down, and flung their blankets over their heads, to the astonishment of the whole assembly. When two chiefs arose, and with a pipe of peace, stood by the side of these victims, and offered their lives to Colonel Clark, as an atonement for the offence of their tribe; this sacrifice they hoped would appease the Big Knife, and they again offered the pipe. Clark would not yet admit a reconciliation with them; but directed them in a milder tone than before to be seated; for he would have nothing to say to them. "The alarm of these people appeared," said Clark, "wrought up to so high a degree, that they appeared to think the tomahawk was suspended over the heads of every one of their tribe; and that nothing but peace could save them." They thought that by putting these two young men to death, or keeping them as slaves, our countrymen might be reconciled. The offered victims kept their position, only now and then putting out their heads, as if impatient to know their fate. This affecting and romantic incident embarrassed the

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ready mind even of Clark; he had always, he says, intended to be persuaded to grant these Indians peace, but with a reluctance, that should enhance its value. The assembly was all silence and suspense with anxiety, to know the fate of the victims; while Colonel Clark, deeply affected with the magnanimity of these rude children of the forest, declares "he never felt so powerful a gush of emotion over his mind, or ever so capable of speaking from the impulse of that feeling." He ordered the young men to arise and uncover themselves; he then said, "He rejoiced to find, that there were men in all nations; that these two young warriors, (pointing to the victims,) had been offered by their tribe, were at least a proof for their own countrymen.

"Such characters were alone fit to be chiefs, and with such he liked to treat; through them the Big Knife granted peace to their tribe, and he took them by the hand, as the chiefs of their tribes." They were immediately introduced (with no slight change of countenance, which they could not with all their efforts entirely suppress,) to the American officers, as well as to the French and Spanish gentlemen, who were present; and lastly to the other Indian chiefs. They were saluted by all, as chiefs of their tribe, and Clark immediately held, with great ceremony, a council, in which peace was settled with their people, and presents granted to distribute among their friends. Colonel Clark was afterwards informed, that these young men were held in high esteem by their people; and that the Americans were much talked of, on account of this incident.

Colonel Clark now turned his attention to Saguina, or Black Bird, and Nakioun, two chiefs of the Sotairs and Ottoway tribes, bordering on Lake Michigan. The former of these chiefs had been in St. Louis, when Clark first invaded the country, and not trusting to Spanish protection, had returned to his tribe; though he had sent a letter to Clark, apologizing for his absence. He was found on inquiry to possess so much influence over considerable bands about the St. Joseph's, of Lake Michigan, that Colonel Clark departed from his usual distant policy, and invited him by a special messenger, to come to Kaskaskia. The invitation was immediately complied with, and Black Bird visited

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Colonel Clark with only eight attendants. After the party had recovered from their fatigue, preparations were made as usual for a council, with the ceremonies generally practiced. These were no sooner noticed by this sagacious chief, than he informed Colonel Clark, that he came on business of importance to both, and desired that no time might be lost on ceremonies. This chief declared he wanted much conversation with Colonel Clark, and would prefer sitting at the same table with him to all the parade and formality which could be used. Accordingly a room was prepared for this straight forward and direct chief, and his American cotemporary: they both took their seats at the same table, having interpreters seated to their right and left. Black Bird opened the conference by saying, "he had long wished to enjoy a conversation with a chief of our nation: he had conversed with prisoners, but he could not confide in them; for they seemed to be afraid to speak the truth. That he had engaged in the war against us, was true; although doubts of its justice always crossed his mind, owing to our appearing to be the same nation with the British. Some mystery hung over the matter, which he wanted removed: his anxiety was to hear both sides, while he had hitherto, only been able to hear one." Clark readily undertook to satisfy this inquisitive chief, and compelled as he was to employ similies for so many ideas, foreign to barbarous society, it took him nearly half a day to answer the inquiries of the Indian. This was accomplished to his entire satisfaction, and he expressed himself convinced that the Americans were perfectly right; he was glad that their old friends the French, had united their arms with ours, and the Indians ought to do the same. But as we did not wish this, his countrymen, he thought, ought at least to be neutral. He was convinced the English must be afraid, because they gave the Indians so many goods to fight for them; his sentiments, he said, were fixed in our favor; and he would no longer listen to the offers of the English. He would put an end to the war, and would call his young men in, as soon as he could get home and have an opportunity of explaining the nature of the war to them.

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This display of the chief's sentiments, may well be conceived, to have given Clark the utmost satisfaction; and he promised to write to the Governor of Virginia respecting his friendly conduct, and to have him registered among the friends of the Big Knife. In a few days the chief set off for his native forests, accompanied at his desire, by an agent of Clark. A couple of pack-horses were loaded with provisions and presents for this sagacious and sensible Indian, who continued a faithful friend to American interests.

There was a point of no little policy observed by Clark, in his conferences with the Indians at this time; it was not to blame the Indians for taking British presents, which in *their* poverty and *our* inability to supply their wants, was unavoidable. The influence of commerce has spread to the remotest wilds of the earth, and bound alike in her golden chains, the citizen of refined society, and the barbarian of the woods. The rifle and its ammunition have long banished the bow and other ruder instruments of war, among the Indians contiguous to the whites; and the beaver trap, the camp-kettle, and the blanket, in addition to a thousand wants of his fancy, have rendered trade and arts, as necessary to the Indian, as to the civilized man. Illustrations of this truth are presented in the story of all uncivilized people.* But Clark exerted his utmost influence to impress the Indians with the degradation of fighting for *hire;* that it was beneath the dignity of a warrior. "The Big Knife," he said, "looked upon the scalps of warriors fighting their own battles, as the greatest trophies of war; but those of men fighting for hire, were given to children to play with, or flung to the dogs." This language, stern as it may seem, had the best effect upon these barbarous tribes; who were never under more effectual influence, than under Colonel Clark.

About this time he received a letter from a celebrated chief by the name of Lages, or Loges; also known by the appellation of Big Gate. This chief, who being a boy when the great Pon-

* See this subject beautifully traced in the "Rights of Industry," one of the inestimable volumes of popular instruction, which have emanated from a British society, adorning, and adorned by their great modern Chancellor.

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tiac besieged Detroit, had shot a British soldier standing in the fort; from this circumstance, his title had been given to him. Several parties had been very successfully commanded by this warrior against our frontiers; but happening to fall in with a party of Pyankeshaws coming to Kaskaskia, he determined to come and see what our countrymen had to say for themselves. With no little assurance, he appeared every day in council, seated in the front of the room, dressed in a full war dress; and the bloody belt, which he had received from the British, hanging about his neck. In this condition, he attended the council for several days, without saying a word to our countrymen, or they saying any thing to him; at length, at the close of the deliberations with the tribes, who were in attendence, Clark addressed this silent chief, by apologizing for not noticing him, until the public business was dispatched. "That although they were enemies," said the American officer, "still it was customary among the whites, when they met in this way to treat each other in proportion to the exploits in war, which they had performed against each other." On this account, as he was a great warrior, Colonel Clark invited him to dinner. This the chief, taken by the utmost surprise, endeavored to decline; Colonel Clark would not, however, regard his excuses; but as soon as he would begin them, Clark would renew his solicitations, and express his determination to take no refusal, until he worked up the Indian to the utmost pitch of excitement. Roused in this mannner, he stepped into the middle of the room, threw down his war belt, and a little British flag that he had in his bosom, and tore off all his clothes, but his breech cloth. When thus despoiled of the presents of his late favorites, he struck himself on the breast, and told the audience, "They knew he had been a warrior from his youth, that he had delighted in battle, he had been three times against the Big Knife, for the British had told him lies; he had been preparing for another war party, when he had heard of Colonel Clark's arrival, and he determined to rest himself, and hear what the Americans could say in their defence. He was satisfied the Big Knife was in the right; and as a man and a warrior, he ought not to fight

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any longer in a bad cause; he was henceforth a Big Knife, and he shook hands with Colonel Clark and his officers, and saluted them as brothers." The drollery of the matter was, that the new brother was naked, and he must be clothed; accordingly a fine laced suit was procured for him, and he was dressed in all the finery of military parade. Shortly after this entertainment, Lages desired a private interview with Colonel Clark; in this, he detailed a full account of the situation of Detroit, and he offered his services to the Colonel, to obtain a scalp or a prisoner. The former Clark declined, upon the general principle of discouraging the barbarities of the Indians, and our desire to keep them still; a course of conduct which has ever proved most fruitful to our countrymen, and in many instances has united the Indians with our less scrupulous enemies. Clark assured him of his readiness to receive a prisoner; but charged him by no means to use such a one ill. On the chief's taking leave, Clark presented him with a Captain's commission and a medal, to secure the agency of this new political missionary.

CHAPTER V.

Recapture of St. Vincents by the British—Plans against Americans—French volunteers—March to St. Vincents—Capture—Return to Kaskaskia.

After all this success with the Indians, Colonel Clark began to entertain great apprehensions for St. Vincents; no news had been received for a considerable length of time from that place, till on the 29th of January, 1779, Colonel Vigo, then a merchant in partnership with the Governor of St. Louis, now a venerable and highly respected citizen of Vincennes, brought intelligence, that Governor Hamilton had marched an expedition from Detroit, which had, in December, captured St. Vincents, and again reduced it under the power of the British.*

* There is an anecdote respecting Captain Leonard Helm, evincing an intrepidity which would ill be omitted: it has been communicated to the author, through the friendly interest of Judge Underwood, and his venerable relative, Edmund Rogers, Esq., of Barren county, a brother of Captain John Rogers, and personally intimate with Clark and his officers for

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Owing to the advanced stage of the season, he had postponed his operations against Kaskaskia, and in order to keep his restless auxiliaries employed, whom he had brought with him to the number of about four hundred, he had detached some against the settlements of Kentucky, and others to watch the Ohio river. In the spring, he contemplated re-assembling his forces for a grand campaign, which should first be directed against Kaskaskia.

At this point, "which he had no doubt of carrying, he was to be joined by two hundred Indians from Michillimakinack, and five hundred Cherokees, Chickasaws and other tribes." With this force united to his own, Governor Hamilton had orders from the commander-in-chief in Canada, "to penetrate up the Ohio to Fort Pitt, *sweeping* Kentucky on his way and taking light brass cannon for the purpose. So flushed was the British commander with the hopes of conquest, that he made no doubt, he could force all West Augusta, (meaning the western part of Virginia adjoining the Blue Ridge.*") The same respected gentleman† informed him, that Governor Hamilton had not more than eighty men in garrison, three pieces of cannon, and some swivels mounted. With the promptitude inspired by his eminent genius for war, our daring commander determined, like his most appropriate original, the great Hannibal, to carry the war into the enemy's country—as Clark said, "I knew if I did not take him, he would take me." He immediately fitted up a large Mississippi boat as a galley, mounting two four pounders and four swivels, (obtained from the enemy's fort at Kaskaskia,) which he placed under the command of Captain John Rogers,

years. It is as follows: when Governor Hamilton entered Vincennes, there were but two Americans there, Captain Helm, the commandant, and one Henry. The latter had a cannon well charged, and placed in the open fort gate, while Helm stood by it with a lighted match in his hand. When Hamilton and his troops got within good hailing distance, the American officer in a loud voice, cried out, "Halt." This stopped the movements of Hamilton; who, in reply, demanded a surrender of the garrison. Helm exclaimed with an oath, "No man shall enter until I know the terms," Hamilton answered, "You shall have the honors of war;" and then the fort was surrendered with its garrison of one officer and one private. Such is a specimen of the character of Colonel Clark's followers. They were the very choice of Virginia, and the western frontier. Dangers they scarcely counted, and difficulties presented themselves but to be overcome.

* Jefferson's Correspondence, vol. I. page 457.

† It is grateful to the mind, to record the essential services of Colonel Vigo, who, at the advanced age of eighty-six, still takes so much interest in ancient transactions, as at the instance of the author, to institute inquiries into them, among his compatriots.

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and a company of forty-six men. This party had orders to force their way up the Wabash if possible, to station itself a few miles below the mouth of White river, suffer nothing to pass, and wait for further orders.

This expedition being determined on, the French inhabitants of Cahokia and Kaskaskia, raised two companies of men; those of the former place were commanded by Captain McCarty, and those of the other by Captain Francois Charleville. These, added to the Americans, made a party of but one hundred and seventy men in the aggregate: on the 7th of February, 1779, this forlorn hope commenced its march for St. Vincents, over the drowned lands of the Wabash, in a wet, though fortunately, not a cold season. This dreary and fatiguing march was alleviated by the politic management of Clark, who, to divert his men, encouraged parties of hunting and invitations from the companies successively to feasts on game, and war dances of a night, in the manner of the Indians. In this way the party, after incredible fatigues, reached the Little Wabash on the 13th; these difficulties were, however, nothing to those they still had to encounter. At this point, the forks of the stream are three miles apart, and the opposite heights of land five miles in the ordinary state of the water; at the time of Clark's arrival, the interval was covered with water, generally "three feet deep, never under two, and frequently over four."* On the 18th, the expedition got so near St. Vincents, as to hear the morning and evening guns at the fort: and in the evening of the same day, reached within nine miles of the town, below the mouth of the Embarras river. Great difficulties were now experienced in getting canoes, in which to cross the river, and the men required all Clark's address and command to keep their spirits from failing. Still there was no sight of their galley, and canoes could not be built in time to save the party from starving in the destitute condition in which they were. On the 20th, the water guard brought a boat to, from which the most cheering intelligence was obtained, of the disposition of the inhabitants of St.

* In the midst of this wading, rather than marching, a little drummer, who floated along on his drum head, afforded much of the merriment that helped to divert the minds of the men from their hardship.—*Journal of the march by Major Bowman.*

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Vincents, and the continued ignorance on the part of the enemy, of our movement. There was yet a large sheet of water to cross, which proved on sounding to be up to the armpits; on the report being made, and Clark speaking seriously to an officer, the whole detachment caught the alarm, and despair seemed ready to possess them. Colonel Clark observing the depression on the faces of his men, whispered to one or two officers near him to imitate him immediately, in what he was going to do; he then took a little powder in his hand, and mixing it with some water, blacked his face with it, raised an Indian war whoop, and marched into the water, imitated and followed by all his men without a murmur. So much does the conduct of men in large bodies, depend upon the address and tone of a commander; this trick of backwoods' invention, communicated a new impulse to the party, and they stepped into the water with the cheerfulness, which many troops under their sufferings, would not have shewn on land. A favorite song was now raised, and the whole detachment sung in chorus: when they had got to the deepest part, where it was intended to transport the troops in two canoes, which they had obtained; one of the men said he felt a path, (which is said to be quite perceptible to the touch of naked feet,) and it being concluded this must pass over the highest ground, the march was continued to a place called the Sugar Camp, where they found about half an acre of ground not under water. From this spot, another wide plain of water was to be crossed, and what heightened the difficulty was, the absence of all timber to afford its support to the famishing and fatigued party in their wading. The object of all their toils and sufferings was now in sight, and after a spirited address, Clark again led the way into the water, still full middle deep. Before the third man stepped off, Clark ordered Captain Bowman to fall back with twenty-five men, and put any man to death, who refused to march, for no coward should disgrace this company of brave men. The order was received with a huzza, and they all pursued their fearless commander; some times they were cheered with a purposed deception by the cry of the advance guard, that the water was grow-

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ing shallower; and as they approached nearer, the favorite cry of mariners—land—land—was hallooed out. Yet, when they arrived at the woods, the water was found up to the shoulder; still the support of the trees, and the floating logs for the weaker men, were found of the most essential service. To such a degree of exhaustion had this march through so much, and such deep water, reduced the men, that on approaching the bank, or rather, the high ground, they would fall on their faces, leaving their bodies half in the water; because no longer able to continue their efforts. While resting at a spot of dry timbered ground, which the party had reached; an Indian canoe, with a quarter of buffalo beef in it, some corn and tallow, was captured. This was a prize of inestimable value to men in their exhausted condition, and it was presently cooked into broth, which refreshed the men in the most acceptable manner, small as the amount was to each individual. In a short time a prisoner was made of a gunner, who was shooting ducks near the town, and Colonel Clark sent by him a letter to the inhabitants of the post, informing them that he should take possession of their town that night; and giving notice to all, who were friends to the king of England, to repair to the fort and fight like men; otherwise, if discovered after this notice, aiding the enemy, they would be severely punished. Seldom has frank notice been given to an enemy, and choice afforded to retire to his friends; it was resorted to in hopes that its imposing character would add to the confidence of our friends; and increase the dismay of our enemies. So much did it operate in this way, that the expedition was believed to be from Kentucky; it was thought utterly impossible, that in the condition of the waters it could be from Illinois. This idea was confirmed by several messages under the assumed name of gentlemen known to have been in Kentucky, to their acquaintances in St. Vincents; nor would the presence of Clark be credited, until his person was pointed out by one who knew him.

To mask the weakness of the force, the soldiers had their instructions to frame their conversation before strangers, so as to lead them to believe, there were at least a thousand men. One

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circumstance occasioned much surprise in the American party; that although a great deal of bustle could be perceived in all the streets of the town, not a drum was heard, nor a gun was fired from the fort; in fact, as was afterwards learned, even the friends of the British were afraid to give the garrison notice of Clark's presence. About sunset on the 23d of February, the American detachment set off to take possession of the town, marching and countermarching round some elevations in the plains; and displaying several sets of colors, which had been brought by the French volunteers, so as to enhance the appearance of their numbers; then taking their course through some ponds that were breast high, they encamped on the heights back of the town. Still there was no hostile demonstration on the part of the British, and there was the utmost impatience with the Americans to unriddle the mystery. For this purpose, Lieut. Bayley was sent with fourteen men to commence the attack upon the fort; but the fire of this party was attributed to some drunken Indians, who frequently saluted the fort in this manner, until a man was shot down through a port hole; when the engagement began in good earnest on both sides.* During the fire, when the American ammunition had become very low, owing to a reliance upon the stores in the galley; a very fortunate disclosure of powder and balls, which had been buried to keep it out of the hands of the British was made by the owners, Colonel Legrass, Major Busseron, and others. The Tobacco's son formerly mentioned, now made his appearance, and offered his services with a hundred warriors; the offer was, however, declined, though his presence and counsel was de-

* "There is an amusing anecdote connected with the siege, illustrative of the frank and fearless spirit of the times; that while Helm was a prisoner, and playing at piquet with Governor Hamilton in the fort, one of Clark's men requested leave of his commander to shoot at Helm's quarters, so soon as they were discovered, to knock down the clay or the mortar into his apple toddy; which he was sure the Captain, from his well known fondness for that fine liquor, would have on his hearth. It is added, that when the Captain heard the bullets rattling about the chimney, he jumped up and swore it was Clark, and he would make them all prisoners; though the d——d rascals had no business to spoil his toddy." *Louisville Directory*, page 97. It is added, that when Helm made this exclamation about Clark, Governor Hamilton asked, "Is he a merciful man?" It seems an intelligence was kept up between Helm and Clark, through the medium of Henry's wife, who lived in the town; and who had free access to her husband in the fort. Helm cautioned the British soldiers against looking out at the port holes; "for" said he, "Clark's men will shoot your eyes out;" it accordingly happened, that one was shot through the eye, on attempting to look out, when Helm exclaimed; "I told you so."—*Letter of Edmund Rogers, Esq., to the author.*

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sired. The fire continued without intermission, except for about fifteen minutes before day, until nine o'clock the next morning. Our men would lie within thirty yards of the fort, and untouched, from the awkward elevation of the platforms of the garrison guns; the balls would do no damage but to the buildings of the town: while, on the other hand, no sooner was a port hole opened, or even darkened, than a dozen rifles would be directed at it, cutting down every thing in the way. By this terribly concentrated fire, the garrison became discouraged, and could not stand to their guns; in the course of the morning a fierce demand of capitulation was made by Clark, but firmly rejected by Governor Hamilton; who declared, "he would not be awed into any thing unbecoming British subjects." Our men were urgent for a storm of the fort, but Clark sternly repressed such rashness. In the evening, the British officer finding his cannon useless, and apprehensive for the result of being taken at discretion, sent a flag desiring a truce of three days. This, Colonel Clark thought too imprudent to grant; although he himself expected a reinforcement with artillery on the arrival of his galley: he proposed in return, that the British garrison should be surrendered at discretion, and that Governor Hamilton should, with Captain Helm, then a British prisoner, meet him at the church. In consequence of this offer the parties, with a Major Hay, on the British side, met each other as desired; when Clark having rejected the terms offered by Governor Hamilton, the latter insisted on some offers from the former; Clark peremptorily adhered to the first that had been mentioned. Captain Helm attempting to moderate the excited feelings between the two officers, was reminded by Clark, that he was a British prisoner, and he doubted whether he could with propriety speak on the subject. The British commander then said, that Captain Helm was liberated from that moment; but Clark refused to accept his release on such terms, and said, he must return and abide by his fate. The British officer was then informed, that the firing should begin in fifteen minutes after the beating of the drums; and the gentlemen were taking their course to their respective quarters; Governor Hamilton

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now called to Colonel Clark, and politely inquired of him, what his reasons were, for rejecting the garrison on the liberal terms which had been proposed to him. The American officer then told him with affected severity, "I know the principal Indian partisans from Detroit are in the fort, and I only want an honorable opportunity of putting such instigators of Indian barbarities to death. The cries of the widows and orphans made by their butcheries require such blood at my hands. So sacred," said Clark, "do I consider this claim upon me for punishment, that I think it next to divine, and I would rather lose fifty men, than not execute a vengeance, demanded by so much innocent blood. If Governor Hamilton chooses to risk the destruction of his garrison for the sake of such miscreants, it was at his pleasure." Upon this, Major Hay exclaimed, "Pray, sir, whom do you mean by Indian partisans?" Clark keenly and promptly replied, "I consider Major Hay one of the principal ones." The change in Hay's countenance was instantaneous, like one on the point of execution; he turned pale and trembled to such a degree, that he could scarcely stand. Governor Hamilton blushed for his behavior in the presence of these officers; and Captain Bowman's countenance expressed as much contempt for the one, as respect and sorrow for the other. From that moment Clark's resolution relented, and he determined in his own mind, to show Governor Hamilton every lenity in his power: he told him, that "they would return to their respective posts, and he would reconsider the matter, and let him know the result by a flag." Upon the British offer being submitted to the American officers, it was agreed that our terms should be moderated; they were accordingly communicated to Governor Hamilton, and immediately acceded to by him. This capitulation on the 24th of February, 1779, surrendered Fort Sackville to the Americans; the garrison was to be considered as prisoners of war. On the 25th, it was taken possession of by Colonel Clark, at the head of the companies of Captains Williams and Witherington, while Captains Bowman and McCarty received the prisoners; the stars and stripes were again hoisted, and thirteen cannon fired to celebrate the reco-

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very of this most important strong hold upon the Indian frontier. At this surrender there were seventy-nine prisoners received, and considerable stores: on viewing the strength of the fort, Colonel Clark was astonished at its easy surrender; but on reflection was convinced, that it could have been undermined, as the fort was within thirty feet of the river bank. If even that attempt had failed, his information was so exact that on the arrival of his artillery, the first hot shot could have blown up the magazine. A few days afterwards, Captain Helm was dispatched up the Wabash after a quantity of stores, upon their way from Detroit; all of which were surprised; and stores to the amount of ten thousand pounds sterling, with forty prisoners, were captured. On the return of this successful expedition, with the British flags still flying, our galley hove in sight, and was preparing for an attack upon the little river fleet, supposing it to be the enemy; but soon the beloved ensign of American freedom was hoisted at the mast head, to the joy and triumph of our countrymen. They were only mortified to find their services had not been lent in the reduction of the post. After this brilliant achievement, over obstacles which might well have deterred the most energetic of commanders, it was not for a moment looked upon as a sufficient effort, but on the contrary, it was only regarded as a stepping stone to other and richer triumphs. Detroit now presented itself in full view, to our bold and indefatigable officer. "Twice has this town been in my power," he writes to Governor Jefferson; "had I been able to have raised only five hundred men when I first arrived in the country, or when I was at St. Vincents, could I have secured my prisoners, and only have had three hundred good men, I should have attempted it." Recent intelligence had informed Clark, that the British force at Detroit consisted of but eighty men, many of them invalids, and the inhabitants exceedingly well disposed towards the American interest. Indeed Colonel Clark had determined on completing his bold enterprises, by an attack upon this point, with his present forces; when receiving dispatches from Governor Henry, promising a reinforcement of another battalion, to

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complete the regiment, it was deemed most prudent to postpone the expedition, until such an imposing force should arrive. In the meantime Colonel Clark embarked on his galley for Kaskaskia, leaving Captain Helm once more in the command of the town, and the superintendence of Indian affairs. By these gallant expeditions, Colonel Clark most richly merited the high encomiums of Chief Justice Marshall, "that these bold and decisive measures, which, whether formed on a great or small scale, mark the military and enterprising genius of the man, who plans and executes them." The circumstantial relation of these exploits now, for the *first* time, submitted to the American public, may appear to some, as too wide a digression from the plan of this history. The author thinks not; for they form an integral and almost important part of Kentucky history; achieved under the auspices of our parent State, by a portion of troops drawn from this Commonwealth, when it, as well as the eastern Illinois,* formed a portion of the wide domain of Virginia. Nor does the author think a more cruel mutilation of Kentucky history could be committed, than to omit these brilliant Illinois campaigns, which contributed so materially to support the settlement of Kentucky, by distracting and overawing her savage foes. To the mind of the author, they present some of the most beautiful flowers of western history, worthy of the most assiduous care.

CHAPTER VI.

First Court of Kentucky—Its officers—First Colonel—Siege of St. Asaphs, or Logan's Station—British Proclamations—Capture of Boone—Siege of Booneborough—Land Law—Its Commissioners.

It is now time to turn our attention to the more immediate affairs of Kentucky, the narration of which has been suspended, in order to present in one unbroken story, the achievements of the great western hero. It has been seen that it was owing to

* The west side of the Upper Mississippi was called Western Illinois, under the Spanish government, and that portion on the eastern side, was called Eastern Illinois.—*Ancient Inhabitants.*

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his agency, that the executive of Virginia was induced to undertake the defence of Kentucky at all, and subsequently, that the legislature established it, as an integral part of that ancient Commonwealth.

Hitherto Kentucky had scarcely formed an object of legislative attention to the parent state of Virginia; which was no doubt profoundly, and justly engrossed, by the soul-stirring concerns of that opening revolution, the results of which have told so gloriously not only for the people of the United States, but for the freedom and the happiness of the world. Still amidst these perilous and tremendous times of social commotion, the legislature of Virginia having declared the State independent of Great Britain, on June 29th, 1776, in October of the same year established the *county of Kentucky*, as has been previously mentioned. The limits of the new county, which had previously formed a part of Fincastle county, in Virginia, embraced "all the country lying south and westward of a line beginning on the Ohio at the mouth of Great Sandy creek, (now Big Sandy river) and running up the same, and the main or north-easterly branch thereof, to the great Laurel Ridge, or Cumberland mountain; and with that, to the line of North Carolina," or the present State of Tennessee.

"This may justly be considered an important event in the condition of the Kentucky settlers. As a part of Fincastle county, they had in fact, no part, or lot, in its police; nor could they vote at elections for representatives—receive military protection, or be distinctly heard in the legislature, in consequence of their detached situation: but composing a county themselves, they, by the constitution of the State, were to be thenceforth entitled to two representatives of their own choosing. They were also entitled to have a county court of civil jurisdiction of matters in both law and iniquity—justices of the peace—militia officers—sheriff—coroner, and surveyor: in fine, to be a civil, and military municipality, or corporation; with powers competent to their own government, agreeably to the general laws of the Commonwealth."*

* Marshall 1, page 47.

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Our first municipal court, under the authority of Virginia, went into operation in 1777, at Harrodsburg; "composed of six or eight of the most respectable men in the county for literary information." These "had been commissioned by the Governor of Virginia, as justices of the peace; and who could, moreover, hold monthly sessions for the dispatch of ordinary business. The names of John Todd, John Floyd, Benjamin Logan, John Bowman, and Richard Calloway, are recollected by Mr. Humphrey Marshall. Levi Todd was appointed the first clerk of Kentucky, in its chrysalis condition of a county. The requisite officers for a regiment of militia were also commissioned; of which John Bowman was Colonel, being the first Colonel of Kentucky county.* He promptly placed the citizens, whether permanent residents, or not, in companies and battalions. Thus was organized this infant colony of Virginia, under the command of a county Lieutenant with the rank of Colonel; no imperfect type of their British ancestors, who had migrated to Jamestown, and had founded the parent Commonwealth. Let us for a moment consider the situation of our pioneers at this period of their history. They were posted in the heart of the most favorite hunting ground of numerous and hostile tribes of Indians, on the north and on the south; a ground endeared to these tribes by its profusion of the finest game, subsisting on the luxuriant vegetation of this great natural park; in a fatness, not surpassed by the flocks and herds of agricultural society. It was, emphatically the Eden of the Red man. Was it then wonderful, that all his fiercest passions, and wildest energies, should be aroused in its defence against an enemy; whose success was the Indian's downfall? So formidable were these enemies, into whose mouth our handful of hunters had thrown themselves, that they occupied the present territory of Tennessee, and the whole north-western side of the Ohio river; now embracing the States of Ohio, Indiana, Illinois, and the territory of Michigan. These territories were then the stronghold of the most ferocious and war-like tribes of Indians on this continent. They had frequently wasted the frontiers of the

* Correspondence of Colonel Logan with Clark.

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Carolinas, Pennsylvania, and Virginia, with the tomahawk, and with fire. Moreover, the enemy was at this time freely aided by the arts and treasure of Great Britain, furnished by her military officers from Detroit to Kaskaskia. Thus the pioneers of Kentucky were separated by three or four hundred miles of Indian wilderness, from the nearest fort of their countrymen at Pittsburg; and fully six hundred miles from the seat of government in Virginia, with forests and Indian country between. Under these appalling circumstances, may not the forlorn and perilous situation of our first settlers, bear some honorable comparison with the gallant daring of the fathers of our great republic, who led the way across the Atlantic wave, and founded the empire of freedom at Jamestown, and at Plymouth?

It was the turn of Logan's fort next, to experience an attack by about the same number of Indians, and probably by the same party which had so recently invested Boonesborough, and attacked Harrodsburg.* The garrison at that time consisted of fifteen men only. The two other principal forts were each kept in a state of alarm by the Indians, so that no assistance could be afforded by the one to the other. The distresses of the inhabitants, particularly of the women and children, may faintly be conceived; cooped up at this period of the year in their confined stations, and surrounded by a merciless foe. "But aided by Logan, and encouraged by his example, the little handful under his command, not exceeding thirty-five, the men less than half this number, would not complain, much less despair." What must have been the joy of these beleaguered forts, when on the 25th of July, 1777, a party of forty-five recruits arrived at Boonesborough from North Carolina! The Indians made their attack upon Logan's fort, with more than their usual secrecy, while the women, guarded by a part of the men, were milking the cows outside of the fort; they were suddenly fired upon by a large body of Indians, till then concealed in the thick cane which stood about the cabins. By this fire, one man was killed and two others wounded, one mortally; the

* Marshall 1, page 49.

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residue, with the women, got into the fort. When, having reached the protection of its walls, one of the wounded men was discovered, left alive on the ground. Captain Logan distressed for his situation, and keenly alive to the anguish of his family, who could see him from the fort, weltering in his blood, exposed every instant to be scalped by the savages, endeavored in vain for some time to raise a party for his rescue. The garrison was, however, so small, and the danger so appalling, that he met only objection and refusal; until John Martin stimulated by his Captain, proceeded with him to the fort gate. At this instant, Harrison, the wounded man, appeared to raise himself on his hands and knees, as if able to help himself, and Martin withdrew, deterred by the obvious hazard; Logan, incapable of abandoning a man under his command, was only nerved to newer and more vigorous exertions to relieve the wounded man, who, by that time, exhausted by his previous efforts, after crawling a few paces, had fallen to the ground: the generous and gallant Captain took him in his arms amidst a shower of bullets, many of which struck the palisades about his head; and brought him into the fort to his despairing family. Shall an action of this high wrought magnanimity, tell less honorably to the human heart, because it was performed on a small scale? Shall it weigh less in moral estimation, because two men were concerned, instead of hundreds or thousands? To the mind of the author, the essence of exalted feeling and affectionate devotion is the same upon all scales of action; and the numbers upon whom it may have operated, are only one of the extrinsic circumstances.

Another danger now assailed this little garrison—"there was but little powder or ball in the fort; nor any prospect of supply from the neighboring stations, could it even have been sent for, without the most imminent danger." The enemy continued before the fort; there was no ammunition nearer than the settlements on Holston, distant about two hundred miles; and the garrison must surrender to horrors worse than death, unless a supply of this indispensable article could be obtained. Nor was the task very easy to pass through so wily an enemy, or

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the dangers and difficulty much lessened, when even beyond the besiegers; owing to the obscure and mountainous way, it was necessary to pass through a foe, scattered in almost every direction. But Captain Logan was not a man to falter where duty called, because encompassed with danger; with two companions he left the fort in the night. With the sagacity of a hunter, and the hardihood of a soldier, he avoided "the trodden way by Cumberland Gap, which was most likely to be waylaid by the Indians," and explored his passage over the Cumberland mountain where no man had ever traveled before, through brush and cane, over rocks and precipices, sufficient to have daunted the most hardy and fearless. In less than ten days from his departure, Captain Logan having obtained the desired supply, and leaving it with directions to his men, how to conduct their march, arrived alone and safe at his "diminutive station," which had been almost reduced to despair. The escort with the ammunition, observing the directions given it, arrived in safety, and the garrison once more felt itself able to defend the fort and master of its own fortune. Still, they were under the necessity of hunting for their support, which daily exposed them to the Indians, who infested the whole neighborhood. In this situation the fort remained from the 20th of May until the month of September; when, most unexpectedly, Colonel John Bowman arrived with a reinforcement of one hundred men. A detachment of these, considerably in advance of the main body, upon its approach to the fort, was fired on by the besiegers and several of them killed; the rest made their way into the place, which soon led to the dispersion of the enemy. On the dead body of one of the detachment, were found proclamations by the British Governor of Canada, offering protection to such of the inhabitants as would abandon the rebellious colonies, and denouncing vengeance against those who refused. Thus was announced to the western people, that the Indians and British were united in the war against them. Logan, upon receiving the papers from the man who found them, thought it most prudent, in the harrassed and disstressed state of the garrison, rather than of the country, to conceal their contents.

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The assistance of Colonel Bowman was but temporary; "his men were engaged but for a short time, and much of that had expired on the road;" when their term of service had been completed, they immediately returned to their homes. Thus a short time "deprived the garrison of its auxiliaries, and the fort was left to its resident inhabitants;" the Indians had not withdrawn from the country; and yet, under this accumulation of distress, their ammunition was again nearly exhausted. "Again Logan left his family and his fort," for the settlement on Holston, and with his usual promptitude and energy, obtained what he sought and returned again in safety to his expecting friends. "Soon after his return, his force was augmented by a party under *Montgomery," which must have given peculiar animation to the garrison after the departure of Colonel Bowman's troops.

A second attack was now made upon Boonesborough on the 4th of July, by an Indian force of two hundred warriors. In this attempt, the garrison, not half the number of the enemy, lost one man, and had two wounded; while the Indians had seven killed, as was seen from the fort, although removed from the ground, agreeably to the custom of the enemy. This siege lasted "two days and nights," when the Indians "losing all hope of success tumultuously" departed, concealed by the adjacent hills.

"Notwithstanding these various sieges, the fields adjacent to the forts were cleared of their timber, and cultivated in corn and vegetables,"—some keeping guard, while others labored, and each taking his turn as a hunter, at great hazard. Yet, amidst these multiplied and hidden dangers, the intrepidity of our hunters found it a relief, to take an equal chance with the enemy in the woods. "They thought themselves the best marksmen, and as likely to see the Indian first, as to be seen by him; while the first sight was equivalent to the first fire, and the most expert shooter held the best security for his life." The Indians had become shy in exposing themselves before the garrison; and

* Possibly John Montgomery, who commanded a company in the Illinois battalion, and was afterwards Lieutenant Colonel in the regiment of the same name.

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even in the woods, took some precautions to avoid rencounters with equal numbers.

On the close of this most eventful year, "the Indians disappeared for a while:" and the only permanent settlements yet formed in Kentucky were at Boonesborough, with twenty-two men; at Harrodsburg, with sixty-five; and at Logan's fort, or St. Asaphs, with fifteen. In this *army* of Kentucky, amounting to one hundred and two men, a few less than the first band of Plymouth pilgrims; the occasional militia from the nearest settlements, who had returned home in the autumn, are not estimated.

With this small number of fighting men in the country, no language can describe the distress, which was felt when intelligence was received of the capture of Daniel Boone, with twenty-seven men at the Lower Blue licks. The circumstances of this heavy misfortune were, that Boone, on 1st January, 1778, had with thirty men, gone to these Licks* "to make salt for the different garrisons in the country, where the people were in great want of that article, without the prospect of supply from abroad." The 7th of the ensuing February, as he was hunting for the support of the salt-makers, he fell in with a large Indian party, with two Frenchmen, on its march to attack for a third time, the devoted Boonesborough. At this moment the Indians particularly wanted a prisoner, who might give them intelligence; and while Boone fled, some of their swiftest warriors pursued, and overtook him. Eight days afterwards, they brought Boone to the Licks, where twenty-seven of his men surrendered as prisoners, by previous capitulation, in which they were promised life, and good treatment. The other three men of the party had been sent home with the salt, which had been made.

The Indians most fortunately for Kentucky, instead of pushing their advantage against the weakened forts, and with such precious pledges in their possession, sweeping the land by the threats of massacreing their prisoners; elated with their success, they proceeded to Chilicothe on the Little Miami. In justice to our ferocious foes, it must be observed, that during a

Boone's Narrative, page, 18.

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march of three days in cold and inclement weather, they treated the prisoners as they did themselves; *"the generous usage" says Boone, "the Indians had promised before in my capitulation, was afterwards fully complied with." An instance of Indian faith, a continuance of which might have saved both belligerents many ruthless scenes.

Early in June, 1778, a party of four hundred and fifty warriors assembled at Chilicothe, armed and painted in their usual terrific manner, for another expedition against the marked and signal object of Indian resentment and hostility—Boone's fort on the Kentucky river. Now for once Captain Boone derived pleasure from his captivity, as it gave him information of the utmost importance to his garrison; "and which he determined at all hazards to convey to it, in order to save it from destruction." "On the 16th of the month, before sun-rise I departed," says the pioneer, "in the most secret manner, and arrived at Boonesborough on the 20th, after a journey of one hundred and sixty miles, during which, I had but one meal." Never could an escape have been more providential for the redemption of our forlorn pioneers; the †fort was in a bad state of defence; they proceeded, however, "to repair its flanks, strengthen its gates and posterns, and to form double bastions; all of which was completed in ten days." At length one of the white prisoners escaping from the enemy, informed our people that they had, on learning Boone's elopement, "postponed their expedition three weeks." The Indians had spies out viewing our movements, and were greatly alarmed at our increase in number and fortifications. "The grand councils of the nation were held frequently, and with more deliberation than usual. They evidently saw the approaching hour, when the Long Knife would dispossess them of their desirable habitations; and anxiously concerned for futurity, determined utterly to extirpate the whites out of Kentucky." Our forlorn band was not intimidated at the fearful odds opposed to them; but in the face of so formidable an invasion, as was impending over them, Captain Boone, about the 1st of August,

* Boone's Narrative, page 19. † Idem, page 21.

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1778, made an incursion into the Indian country, with a party of nineteen men, in order to surprise a small town on the Scioto, called Paint-Creek-Town. "We advanced," says he, "within four miles thereof, where we met a party of thirty Indians on their march against Boonesborough, intending to join the others at Chilicothe. A smart fight ensued betwixt us for some time; at length the savages gave way and fled." Learning from two of his spies, who had been sent on to the town, that the Indians had deserted it, Boone returned with all possible expedition to assist the garrison at home. On the 6th of August he passed a mixed party of Canadians and Indians, and on the 7th day, the party arrived safe at Boonesborough. Could active enterprise have been more gallantly displayed at the head of thousands, than by this sagacious and intrepid Captain of rangers? In the face of an enemy, twenty times his force, he carried the war into the enemy's country.*

"On the 8th of August, 1778, the Indian army (if the term is not hyperbolical) arrived, consisting of four hundred and forty-four men, commanded by Captain Duquesne, eleven other Frenchmen, and some of their own chiefs; and marched up within view of our fort, with British and French colors flying." Boone was summoned in His Britannic Majesty's name to surrender his fort; he requested two days for consideration, which were granted. It was now indeed, in the language of Boone, "a critical time" with the besieged: their numbers were small, the army before the walls powerful, "fearfully painted, and marking their footsteps with desolation." Death was, however, preferable to captivity among such an enemy, and this could but be their fate, when the fort should be taken by storm. The party, therefore, concluded to maintain the garrison to the last extremity. The horses and cattle were collected and brought into the fort; and on the evening of the 9th, Boone replied to the summons of surrender, that "they were determined to defend their fort while a man was living." Contrary to all expectations, the garrison was then informed, that "it was the

* Boone's Narrative, page 23.

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orders of Governor Hamilton (the British officer at Detroit) to take them captive and not to destroy them;* but if nine of us would come out and treat with them, they would immediately withdraw their forces from our walls, and return home peaceably." Although this is the exact statement of Captain Boone, it almost surpasses belief, that so prudent a commander should have listened to so insiduous a proposal, carrying deception palpably on its face. Yet the enemy's proposition was embraced; and a treaty concluded within sixty yards of the fort. The Indians then came forward and informed Boone, "that it was customary with them on such occasions, for two Indians to shake hands with every white man in the treaty, as an evidence of entire friendship; they immediately grappled us," says Boone, "but although surrounded by hundreds of savages, we extricated ourselves from them, and escaped all safe into the garrison; except one that was wounded," under a heavy fire from the enemy. The escape was as wonderful, and in defiance of all rational probabilities, as the exposure had been weak and credulous to an extreme. The whole transaction evinces an unaccountable confidence on the part of Boone, only equalled by the awkward treachery of his antagonists. Well may Mr. McClung, in his most interesting and lively "Sketches of Western Adventure," observe, †"that there seems to have been a contest between Boone and Duquesne, as to which should shew the greatest quantum of shallowness. The plot itself was unworthy of a child, and the execution beneath contempt." Boone, however, is said to have suspected treachery, and to have stationed a guard, and taken arms to repel it.

The enemy "now attacked us on every side, and a constant fire ensued between us, day and night, for the space of nine days." During the siege an attempt was made to undermine the fort, which stood only sixty yards from the river bank; as soon as this was discovered by the muddiness of the water, produced by the excavated clay, a trench was cut to intersect the mine in the bank of the river. When the besiegers found out this, by the clay thrown out of the fort; they desisted from their

* Boone's Narrative, page 22. † Sketches, page 63.

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stratagem, and on the 20th day of August, raised the siege and departed. During this formidable siege, which seemed to threaten so dreadfully, the garrison "had but two men killed and four wounded; besides a number of cattle" destroyed. A degree of injury almost incredibly insignificant, under such fearful odds of numbers; while the enemy's loss amounted to "thirty-seven killed, and a great number wounded." "One hundred and twenty-five pounds of bullets were picked up about the fort, besides those which had penetrated into the logs of the walls." Thus most fortunately terminated an expedition strong enough, under a persevering and energetic commander, with suitable followers, to have stormed every fort in the country; and to have swept it clean of the white man. Providence ordered it otherwise, and as the author confidently believes, for the good of mankind; which can never be extensively promoted under the dominion of the ignorance, the brutality, and the ferocity, incident to a savage state. Sickly must the benevolence of that bosom be, which sighs over the triumph of civilization, even in its ruder forms; for they are the harbingers of brighter and better days of diffusing light, and learning, and religion.

The fall of 1779, was memorable for the removal of a great many families from the interior of Virginia and from the neighboring States.* This extended emigration is attributed to the law then adopted by Virginia respecting the disposition of her vast empire of new and unappropriated lands. "By this law, commissioners were to be appointed to hear and determine all disputes relative to land claims, and to grant certificates of having settled in the country, and of rights to purchase before others; or pre-emption claims, as they were called, to those entitled to receive them."† The county of Kentucky, then synonymous with the subsequent boundaries of the State, was placed

* Three hundred large family boats arrived during the ensuing spring at the Falls; and as many as ten or fifteen wagons could be seen of a day, going from them. By this time, there were six stations on Beargrass creek, with a population of six hundred men. The price of corn fluctuated from fifty dollars per bushel, in December 1779, to one hundred and sixty-five dollars per bushel, in January 1780, and thirty dollars in May. These prices were at a season of obstructed navigation, and in depreciated paper; but its value in gold and silver is not known.—*Colonel Floyd's Correspondence.*

† Marshall, 1, 97.

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under the jurisdiction of this board, composed of four members with appropriate judicial powers. This Court had jurisdiction on these most interesting matters involving the whole real estate of the country, without appeal; unless where one of the parties could not procure the attendance of witnesses; in which case, the claim was to be adjourned to the general Court for final decision. Exceptions were made in favor of military officers in the service of the United States or the State of Virginia, who had a year from their resignation or discharge to perfect their claims. These privileges interfering so much with the rights of innocent parties, were afterwards limited. The commissioners appointed to execute this momentous trust for Kentucky, were William Fleming, Edmund Lyne, James Barbour, and Stephen Trigg, all resident in other parts of Virginia. On the 13th of October, this great land Court was opened at St. Asaph's and John Williams, Jr. was appointed clerk. Some specimens of their adjudications shall be presented for the curiosity of their nature. The first claim presented, was that of Isaac Shelby, (afterwards twice Governor of the State,) to a settlement and pre-emption, as it was termed, *for raising a crop of corn in the country in* 1776. It was granted: these technical terms in the land law of Virginia, require explanation to a general reader. A settlement, consisted in an allowance of "four hundred acres, or such smaller quantity, as the party may choose to include his improvement or cultivation, granted to any person, who should at any time before the 1st of January 1778, have really and bona fide settled himself or his family, upon any waste and unappropriated lands on the Western waters, to which no other hath any legal right or claim." For this grant, two dollars and a quarter per hundred acres, were exacted by the State. A pre-emption was nothing more than a right (which every person entitled to a settlement possessed,) to pay the State price for any quantity of land adjoining his settlement, not exceeding one thousand acres. These latter claims were to be paid for at the rate of forty dollars per hundred acres; various other most equitable and beneficent provisions were enacted for other claimants on the bounty of the State. Yet with

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this generous character plainly represented on the face of the land law, even to an overflowing of charity and consideration for the poor, selling them farms even on these low terms, upon credit; never was a measure of legislation so fruitful of curses and calamities to any community of people, as the land law of Virginia. It has proved a perfect Pandora's box to Kentucky, constantly tricking her industrious and enterprising citizens out of the fruits of their brave and hardy exertions; distracting our courts and legislatures with its endless perplexities and refinements. But of this on another occasion. The court of land commissioners assembled at different parts of the *county* from Harrodsburg to the Falls, and on the 26th of January, 1780, declared its dissolution, after having adjudicated upon three thousand land claims.

About the first of April, 1779, a block-house was built where the neat and beautiful city of Lexington now adorns the State with her literary and scientific institutions. Here a settlement was begun under the auspices of Robert Patterson, who was an early and meritorious adventurer, much engaged in the defence of the country. Colonel Patterson was joined by the McConnels, Lindseys and James Masterson; soon after, Major John Morrison removed his family from Harrodsburg, and Mrs. Morrison was the first white female settled in Lexington.

This name was given to commemorate the battle of Lexington, in Massachusetts, at the commencement of the Revolutionary war. A name finely calculated to perpetuate the noblest of the patriotic associations, for which the people of Lexington have ever been distinguished.*

* Lexington consisted at this time, of three rows of houses or cabins; the two outer rows constituted a portion of the walls of the stockade. These extended from the corner of the city, now known by the name of Levy's corner, to James Masterson's house, on Main Street. The intervals between the houses were stockaded; the outlet a puncheon door with a bar to secure it. A block-house commanded the public spring, and a common field included the site of the present court-house. The discipline about the fort is, however, said never to have been very rigid: nor was the fortification very strictly kept in order.

It is not generally known, that the south-western part of the State was settled as early as 1782. In the testimony on record, in the case of Craddock against William Russel's heirs, in the Court of Appeals, Colonel Abraham Smart deposed, that his father had, at that time, settled on Red river; and about five miles above the mouth of the Elk fork of Red river, south-west of the present town of Russelville. Its noble spring was well known in 1784.

To this may be added the following information respecting the same section of Kentucky. Judge Underwood informs the author, that his uncle, Edmund Rogers, had ob-

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Bryant's station, about five miles north-eastward of Lexington, was settled by the Bryants in 1779, and several stations were erected in the neighborhood of the present town of Danville. This notice must suffice for the rise of our towns, now merging fast into the general settlement of the country in its wide extent.

CHAPTER VII.

Colonel David Rogers' Expedition to New Orleans—Defeat—Captain Benham—Colonel Bowman's Expedition—Colonel Byrd's Expedition up Licking—General George Rogers Clark's march from Fort Jefferson—Shuts up the Land office at Harrodsburg—Expedition against Pickaway.

The annoyance of the Indians still continued, occasionally infesting the stations, and intercepting the traveler and the hunter; yet the people pursued their business in the midst of hostility.

There was a melancholy illustration of this, in an encounter of memorable fatality, which took place between a large party of Indians, and Colonel David Rogers, and Captain Robert Benham,* commanding a couple of keel boats loaded with military stores, and manned by about one hundred men. The former officer had been dispatched by the executive of Virginia in the preceding year, to New Orleans, for the purpose of procuring supplies from the Spanish government at that place; in order to support the military posts on the Upper Ohio, and the Mississippi. This is mentioned in a letter of Governor Henry addressed to Lieutenant Colonel Clark, and dated January 15th,

served the following circumstances, before there was any settlement south of Green river. "There was a beech tree standing in a bottom on the margin of the east fork of the south branch of Little Barren river, about a quarter of a mile from Edmunton, in Barren county, which had upon it the name of "James McCall, of Mecklenburg county, North Carolina, June 8th, 1770." These words were cut in very handsome letters, with several initials of other names. Also on the Sulphur fork of Bay's fork of Big Barren river, at or near the Sulphur Lick, now in Allen county, south-east of Bowling-Green, the following words were found by the same ancient settler, cut in the bark of a beech tree—"James McCall dined here on his way to Natchez, June the 10th, 1770." Judge Underwood when a boy, has frequently seen these memorials of early visitors to Kentucky. The party must, in all probability, have perished; unless some record of their visit may be preserved in North Carolina.

* The father of Joseph S. Benham, Esq., of the Louisville Bar.

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1778. *When Rogers arrived at the mouth of the Ozark, since called Arkansas; he sailed up that river, some twelve or eighteen leagues, to the head of the back water, or overflown ground; and there he deposited his boats, and stationed his men, and proceeded with six or seven, including Captain Robert Benham, down the Mississippi to New Orleans. When he arrived at that city, he found a British sloop of war in the port, the Captain of which, suspicious of the object of an American party from such a direction, (a circumstance of no common occurrence at that day,) watched his movements narrowly, and impeded his business with the Spanish officers. For although they were privately disposed to promote the American interests, yet as the courts of Madrid and London were not openly at war, embarrassment was unavoidable in the presence of a British force.† The situation of Major Rogers was truly critical and perplexing; under these circumstances, he found it necessary to send Captain Benham through the appalling extent of Indian country, on the west side of the Mississippi, with dispatches (it is conjectured) for the government of Virginia. Benham, with the hardihood characteristic of the times, subsisting principally on Indian corn boiled in lie, to save it from the weavil, passed through the Indian wilderness, reached Kaskaskia, then under the American arms; and proceeded to the falls of Ohio, in the spring of 1779. Soon after his arrival at this place, owing to some unexplained succcess, Colonel Rogers, with two keel boats ascended to the same place, on his return to Pittsburg, and most joyfully took Captain Benham on board. The latter gentleman was then placed in command of one of the boats, and the little American squadron, the second escort of military supplies procured by our countrymen from New Orleans, moved on its destination up the Ohio. When Colonel Rogers reached the sand bar above the present city of Cincinnati, he found it bare more than half the width of the river. He now discovered a number of Indians on rafts and in canoes, coming out of the mouth of the Little Miami river, which was then high, and shot its waters,

* Judge Dunlavy, of Ohio. † The declaration of war took place January 16th, 1779.

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and consequently the Indians on their craft nearly across the Ohio river. On seeing the enemy, Colonel Rogers ordered his men to land and attack them; thinking he would be able to surprise them. But on landing and marching through the willows with which the bar was then covered; and before they arrived at the place where they expected to meet the Indians, they were themselves surrounded by nearly five times their number. The enemy quickly dispatched the greatest part of the crew, with Colonel Rogers. The remainder endeavored to retreat to the boats; but they were pursued too relentlessly with the tomahawk. One of the boats, however, escaped with two men and reached the Falls. Not more than nine or ten ever returned to their families and friends. It may be safely affirmed, that the annals of Indian or border warfare contain not a bloodier page. Compared with the battle of the Blue Licks, Rogers' defeat was undoubtedly the more disastrous.

In both instances the success of the Indians may be attributed more to the nature of the battle ground, than to their numerical superiority. They lay encamped at the foot of the river hill, a few hundred yards from its bank, on which Rogers and his men stood anxiously watching the rafts and canoes mentioned above; in this situation the Indians had only to *flank* to the right and left from the base of the hill to the river (a manœuvre which they always perform with skill and celerity) to secure their prey. Thus hemmed in, surrounded and surprised, it is only astonishing, considering the disparity of numbers, that they were not all massacred.

Leonidas in the straights of Thermopylæ, had not to contend with more discouraging circumstances than the brave and unfortunate Rogers in this bloody horse-shoe. The Indians took and plundered one of the boats by which they got considerable booty, consisting of ready-made clothing and munitions of war, which Colonel Rogers had obtained from the Spaniards for the use of the forts on the frontier of Virginia. It is a little remarkable, that only a few years ago, after one of the periodical freshets, several gross of metal buttons were found on the bar where they had been buried ever since the battle. They were

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deposited by the fisherman who found them, in Mr. Dorfuille's Museum at Cincinnati. It may be asked what could have embodied on the bank of the Ohio, at so early a period, four or five hundred Indian warriors, armed and equipped for battle? They were from a predatory incursion against the white settlements in the interior of Kentucky—an expedition which they had undertaken in the vain expectation of extirpating the settlers. A block-house in the vicinity of Lexington, had been beleaguered by them for several days. The chief of this daring band of marauders was a Canadian Frenchman of the half-blood, by the name of Birde. Born and reared among savages, he was alike distinguished for cunning and ferocity; qualities which are supposed to be somewhat peculiar to this Mongrel breed. Such, however, was the outline of his character as drawn by Colonel Campbell, whom he carried a prisoner to Detroit, and who was treated by him on the way in a most barbarous manner.*

Captain Benham shortly after breaking through the enemy's line, was dangerously wounded through the hips.‡ †"Fortunately, a large tree had lately fallen near the spot where he lay, and with great pain he dragged himself into the top, and lay concealed among the branches. The Indians, eager in pursuit of the others, passed him without notice, and by midnight all was quiet. On the following day, the Indians returned to the battle ground, in order to strip the dead and take care of the boats. Benham, although in danger of famishing, permitted them to

* Letter of Joseph S. Benham, Esq. † McClung's Sketches.

‡ The suffering of Captain Benham, who in this battle was dangerously wounded in the left hip, and lay for several weeks at the mouth of Licking, before he was removed to the Falls, is well known. His companion in distress, whose arms were broken, is still alive and resides in the town of Brownsville, Pennsylvania, which at the time he joined Rogers' expedition, was the *ultima thule* of western civilization, or rather emigration.

Captain Benham left the Falls as soon as his wound would permit, and returned home by the way of New Orleans. About twenty years after, he again returned to the west in General Harmar's campaign. In 1790, he was appointed Commissary General to the army under the command of General St. Clair, and he continued in the service performing the most arduous and responsible duties until after the treaty of Greenville, which put a period to this bloody sequel to the war of Independence. In St. Clair's defeat, at the request of the General, when the army was surrounded, he mounted his horse and was among the foremost in leading on the bloody charge which broke through the enemy's lines, and saved the remnant of our troops. Here he was again wounded. But few have braved more, and endured more, and contributed more, in the exploration, conquest, and settlement of the western country, than this adventurous pioneer. He was many years a useful and leading member of the Territorial and State Legislatures of Ohio. He lived to see the wilderness which he had assisted in conquering from the aborigines, "budding and blossoming as the rose."

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pass without making known his condition, very correctly supposing that his crippled legs, would only induce them to tomahawk him upon the spot, in order to avoid the trouble of carrying him to their town. He lay close, therefore, until the evening of the second day, when perceiving a raccoon descending a tree, near him, he shot it, hoping to devise some means of reaching it, when he could kindle a fire and make a meal. Scarcely had his gun cracked, however, when he heard a human cry, apparently not more than fifty yards off. Supposing it to be an Indian, he hastily reloaded his gun, and remained silent, expecting the approah of an enemy. Presently the same voice was heard again, but much nearer. Still Benham made no reply, but cocked his gun and sat ready to fire, as soon as an object appeared. A third halloo was quickly heard, followed by an exclamation of impatience and distress, which convinced Benham that the unknown must be a Kentuckian. As soon, therefore, as he heard the expression "whoever you are—for God's sake answer me!"—he replied with readiness, and the parties were soon together. Benham, as we have already observed, was shot through both legs!—the man who now appeared, had escaped from the same battle, *with both arms broken!* Thus was each enabled to supply what the other wanted. Benham having the perfect use of his arms, could load his gun and kill game with great readiness, while his friend having the use of his legs, could kick the game to the spot where Benham sat, who was thus enabled to cook it. When no wood was near them, his companion would rake up brush with his feet, and gradually roll it within reach of Benham's hands, who constantly fed his companion, and dressed *his* wounds, as well as his own—tearing up both of their shirts for that purpose. They found some difficulty in procuring water, at first—but Benham at length took his own hat, and placing the rim between the teeth of his companion, directed him to wade into the Licking, up to his neck, and dip the hat into the water (by sinking his own head.) The man who could walk, was thus enabled to bring water, by means of his teeth, which Benham could afterwards dispose of as was necessary.

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In a few days they had killed all the squirrels and birds within reach, and the man with the broken arms, was sent out to drive game within gunshot of the spot, to which Benham was confined. Fortunately, wild turkeys were abundant in those woods, and his companion would walk around, and drive them towards Benham, who seldom failed to kill two or three of each flock. In this manner, they supported themselves for several weeks, until their wounds had healed, so as to enable them to travel. They then shifted their quarters, and put up a small shed at the mouth of Licking, where they encamped until late in November, anxiously expecting the arrival of some boat, which should convey them to the Falls of Ohio.

On the 27th of November, they observed a flat boat moving leisurely down the river. Benham instantly hoisted his hat upon a stick and hallooed loudly for help. The crew, however, supposing them to be Indians—at least suspecting them of an intention to decoy them ashore, paid no attention to their signals of distress, but instantly put over to the opposite side of the river, and manning every oar, endeavored to pass them as rapidly as possible. Benham beheld them pass with a sensation bordering on despair, for the place was much frequented by Indians, and the approach of winter threatened them with destruction, unless speedily relieved. At length, after the boat had passed him nearly half a mile, he saw a canoe put off from its stern, and cautiously approach the Kentucky shore, evidently reconnoitering them with great suspicion. He called loudly upon them for assistance, mentioned his name and made known his condition. After a long parley, and many evidences of reluctance on the part of the crew, the canoe at length touched the shore, and Benham and his friend were taken on board. Their appearance excited much suspicion. They were almost entirely naked, and their faces were garnished with six weeks growth of beard. The one was barely able to hobble upon crutches, and the other could manage to feed himself with one of his hands. They were instantly taken to Louisville, where their clothes (which had been carried off in the boat which deserted them) were restored to them, and after a few weeks confinement, both were perfectly restored."

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To punish these attacks, an expedition was appointed against Old Chilicothe, on the Little Miami, to be commanded by Colonel John Bowman. The rendezvous was fixed at Harrodsburg for the people of the interior. Benjamin Logan, John Holder, James Harrod, and John Bulger, were Captains. George M. Bedinger acted as Adjutant, and some of the best men in the country engaged as private soldiers, to the number of three hundred. This was the *first offensive* expedition from Kentucky, since the spirited incursion of Boone, previous to the last siege of Boonesborough, during the preceding year.

Great expectations were entertained of this expedition in Virginia.* Some of its officers were among the most successful and efficient in Kentucky: such as Logan and Harrod. The party marched in the month of July, with their provisions on their backs; they were well acquainted with the ground where it was intended to strike the blow; and the movements were so well conducted, as to escape all discovery. The Indians had never yet experienced a formidable invasion from Kentucky, and seem to have entertained no apprehension of a retaliation for their annual invasions of this most vexed and harrassed land. Colonel Bowman's party arrived within a short distance of the town, near night, and halted. It was then determined to make the attack by day-break; for this purpose, Captain Logan was detached to encircle the town on one side, while Bowman was to surround it on the other, and to give the signal of assault. Logan immediately executed his part of the plan, and waited for his superior officers. Day began to break, and still there was no appearance of the detachment in front; Logan, in the mean time, ordered his men to conceal themselves in the grass and the weeds. The men in shifting about for hiding places, alarmed one of the enemy's dogs, whose barking soon brought out an Indian to discover the cause of the alarm. At this moment, one of Logan's men discharged his gun; the Indian, aware that it proceeded from an enemy, gave an instantaneous and loud whoop, and ran immediately to his cabin. The alarm was now spread, but still the time was not too late

* Jefferson's Correspondence, I, 163.

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for an energetic attack; Logan could see the women and children escaping to the woods by a ridge between his party and the other detachment. The Indian warriors repaired to a strong cabin, with port holes in it, while Logan's men took possession of the cabins left by the Indians, and suddenly adopted the plan of forming a moveable breastwork out of the doors and puncheons or coarse plank of the floors, and pushing them forward as a battery against the Indian post. While these active measures were taking, Colonel Bowman learning from a negro prisoner, that Girty and a hundred Mingos were at the Pickaway Town, and had been sent for, ordered a retreat. A circumstance which aggravated the distress of this order was, that the moment our men uncovered themselves, they were exposed to a destructive fire from the enemy in the council house, while they marched through a prairie, which surrounded the town. A retreat was however most reluctantly begun; and instead of preserving any order, the utmost confusion took place; after the loss of several lives, the party was re-united, and the retreat was resumed in better condition; with the painful reflection, however, that the expedition had not effected as much as it was at first entitled to expect. They only burned the town and captured one hundred and sixty-three horses, and some other spoil, with a loss of six or seven men, in spite of the fairest promises.* The Indian chief Blackfish, the one who had headed an expedition against Harrodsburg, and had taken Boone prisoner at the Blue Licks, at the head of about thirty warriors, pursued our party and was killed; Red Hawk, a new chief, continued the battle. Bowman, though a gallant and experienced officer made no detachments to repulse the savages, and our men were standing, as objects to be shot down. In this condition of things Captains Logan, Harrod, Bulger, and a few others, mounted the pack-horses, and scoured the woods in every direction, rushing on the Indians whenever they could find them. These offensive steps continued until Red Hawk was also killed, when the rest of the Indian party fled; and our men returned home, with a loss of eight or nine killed in the two actions; the loss

* Captain Patton, late of Louisville.

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of the enemy was not accurately known; but no doubt it was considerable, from the intermitted pursuit.*

The expeditions into the Indian country, which had recently been prosecuted by Colonels Clark and Bowman, seem at length to have roused the exertion of British power, in order to counteract the influence of the former, especially upon their Indian allies. With this view, a formidable expedition was prepared, consisting of six hundred Indians and Canadians, commanded by Colonel Byrd, an officer in the British service. Two, or as Boone asserts, six field pieces, which accompanied this party, brought down the Big Miami, and then up Licking, rendered the party resistless to the stockades of Kentucky, utterly destitute as they were of artillery. The march was totally undiscovered by our people, until on the 22d of June, 1780, the enemy appeared before Ruddle's station. This is the more extraordinary, since the British party was "twelve days marching from the Ohio river to Ruddle's station; and had cleared a wagon road a great part of the way."† Colonel Floyd writes to Colonel William Preston of Virginia, early as May of this year, that a similar expedition with artillery was expected, and to be directed against the fort at this city. These facts evince a most extraordinary state of confidence or weakness.

The above station had been settled the previous year, on the easterly bank of the south fork of Licking river; three miles below the junction of Hinkston and Stoner's branches of the same stream. This, the author believes is the first emyloyment of artillery against the forts of Kentucky; and must have appeared little less formidable to *our* riflemen, than it did to belligerents, at the first invention of these terrible arms. The cannon were moved up Licking by water, as far as the junction of the south fork of that river; whence the expedition proceeded

* Gen. Ray thinks differently from the current account, and believes the attack failed from the vigorous defence by the Indians, which prevented Bowman getting near enough to give Logan the signal agreed upon. Gen. Ray gives full credit to Bowman on this retreat, as well as on other occasions.

† It is said that this expedition had been intended to co-operate with Governor Hamilton's projected march from Kaskaskia, so happily superseded by the genius of George Rogers Clark.—*General William Clark.*

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by land against the fort, owing to the lowness of the water. A summons to surrender at discretion to His Britannic Majesty's arms, was immediately made by the enemy, and dreadful as the necessity was, there was no alternative but to comply; resistance was hopeless. The fort gates were accordingly opened, and the Indians rushed in to secure the prisoners, and plunder the property. The same scene was acted at Martin's station, higher up the South Fork, with the same result. The prisoners and plunder were hastily collected together, and the retreat commenced with strange precipitation: many of the prisoners could not support this rapidity; among whom were necessarily most of the women and children. These, loaded with plunder as usual with the Indians, were quickly released from their miseries, by the tomahawk of their savage foes. Those who survived, were dispersed among the Indians, or carried to Detroit; whence they generally returned after several years detention. Yet deplorable as this invasion was to its immediate victims, it is a subject of astonishment, united with gratitude to Heaven, that its furies should have been arrested at these two points; instead of being directed against the stations of the country generally. These were utterly incompetent to defend themselves against it. It is most unaccountable, that the very first and last expedition into Kentucky with artillery, should have returned with such utterly inadequate effect. How proud the contrast in favor of our indefatigable and enterprising Clark! How humiliating and disgraceful to Byrd! The former officer invaded the enemy's country with rifle troops, captured his towns, took his strongest forts armed with cannon, and kept possession of the country; while the latter, with only *small arms* to oppose his *artillery*, confined himself to capturing two paltry stockades; and hurried out of the country so fast as to compel the murder of several of his most helpless prisoners by his barbarous allies. Such is the contrast ever existing between genius and a capacity for ordinary routine. Colonel Byrd,* it is said, had previously limited himself to the

* There is another explanation more honorable to Colonel Byrd; it is, that shocked by the irrepressible barbarities of the Indians, he determined to arrest his expedition, and return to Detroit.

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Licking forts,* and would not extend his plan. At the period of this invasion, there were not three hundred fighting men north of the Kentucky river; and if the expedition could have been kept together for a week or two, Mr. Humphrey Marshall thinks, it might have depopulated the country. On such trifling circumstances, appears to depend the fate of communities; no doubt, however, overruled by the general laws of God's providence, and the government of the universe. True it is, that the Indians once successful to any degree, are, owing to their profound caution, bent against trying their fortune any farther. Thus the unexpected advantage which they gained in the capture of Boone and his men at the Lower Blue Licks, in 1778, most fortunately postponed the attack upon Boonesborough, the original object of the expedition, from February to August.

To retaliate the mischiefs inflicted by the enemy, an expedition against Pickaway, the principal town of the Shawanees, situated on a branch of the Great Miami, was determinad upon by General Clark.

The year 1780, is remarkable for the establishment of Fort Jefferson on the Mississippi, five miles below the junction of the Ohio with the father of the western waters. Colonel Clark effected this measure, notwithstanding the strong dissatisfaction of the settlers of Kentucky, as a wanton division and dispersion of their little force, in conformity, however, with instructions from Governor Jefferson;† in order to fortify the claim of the United States to the wertern boundary of the Mississippi, south of the Ohio.‡ It is now well known, that neither the court of France, nor that of Spain was friendly to the extension of the American boundary to the Mississippi.

Every artifice of diplomacy was resorted to on both sides of the Atlantic, to prevent this aggrandizement of the United States. The French minister at Philadelphia, had not not only disgracefully prevailed on Congress to instruct its ministers in France, to "govern themselves by the advice and opin-

* Marshall 1, 109.

† Governor Jefferson's letters, June 28, 1778, and January and April, 1780.

‡ Pitkin's United States, 2, 95.

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ion" of the French government; to increase the number of plenipotentiaries, in order to overrule the elder Adams; but finally obtained, and at the instance of Virginia too, an instruction to Mr Jay, not to *insist* on the free navigation of the Mississippi, *below* latitude thirty-one degrees north. Spain, indeed, and not feebly supported by France, endeavored to limit these States east of the Alleghany mountains, and to divide the country by the Ohio, between Spain and Great Britain. This approach to converting Kentucky into a Spanish province, will merit a further notice in another part of this work; let it remind us of the services of that able patriot, John Jay, who so firmly resisted it, under clouds of embarrassment, at the courts of Madrid, and of Paris.* A most elaborate statement of the American claims, was drawn by a committee of Congress on the 17th of October, 1780. In this paper, reference is specially made, among other weighty considerations, to the fact, that the United States had †"obtained possession of all the important posts and settlements on the Illinois and the Wabash, rescued the inhabitants from British dominion, and established civil government in its proper form over them. They have, moreover, established a post on a strong and commanding situation *near the mouth of the Ohio*." It was in the spring of this year, that this fort was established; and it has been seen that the representation by Congress, which is attributed by Mr. Pitkin, to Mr. Madison, was drawn up in the ensuing October. The express instructions of Governor Jefferson on the 28th June, 1778, now conclusively place the politic measure of establishing this fort on the Mississippi, and below the Ohio, to the comprehensive mind of this statesman.

The increase of counties which has been already mentioned, necessarily gave rise to a proportionate expansion of our military and civil organization; for each county, according to the laws of Virginia, required a similar municiple system. For these purposes, John Floyd was appointed first county Lieutenant Colonel, and William Pope, the father of the present William Pope, Sen. of Jefferson, Lieutenant Colonel; Benjamin Lo-

* Jay's Life, 1, 237. † Pitkin's United States, 2, 512.

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gan, Colonel, and Stephen Trigg, Lieutenant Colonel, of Lincoln; John Todd, Colonel, and Daniel Boone, Lieutenant Colonel, of Fayette county. These regiments were formed into a brigade, which was placed under the command of General George Rogers Clark. A commission of "Brigadier General of the forces to be embodied on an expedition westward of the Ohio," is preserved among his papers. It is dated January 22d, 1781, and signed by Thomas Jefferson.

Each county had likewise a court of qualified civil and criminal jurisdiction; yet there was no court competent to try capital cases, nearer than Richmond, the seat of government for Virginia. The county courts, however, held quarterly sessions, at which they could try and punish misdemeanors, by fine and imprisonment; adjudicate matters at common law and chancery, of a civil nature over four dollars and one-sixth; or twenty-five shillings. The rest of the judicial business was transacted at the monthly sessions, or by the magistrates individually; these were conservators of the peace and superintended the local concerns of each county. Fortunately, owing to the simplicity of manners, and the equal and rude state of property, there were few temptations to violence, requiring the interposition of criminal law. The first surveyors in the new counties, were George May, in Jefferson, Colonel Thomas Marshall, in Fayette, and James Thompson, in Lincoln county. The services of the two latter were loudly, and for some time vainly called for.

The new system of defending the country by General Clark, may deserve a few words. Spies and scouting parties were scattered over the frontier, who reported to the General, posted at Fort Nelson, in Louisville; to these was added a row galley, constructed for plying up and down the river.* This was built at Louisville, the wreck of which is said to have produced the formation of the point of Beargrass creek, above the present city. This served as a floating fortification; but was confined in its scouting expeditions between the mouth of Beargrass and Licking river. Limited as this sphere of duty was, it is said

* Marshall, 1, 119.

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to have had a good effect in preventing Indian expeditions across its line of operations; and to have once stopped a formidable invasion near its upper station. The aversion, however, of the militia to acting on this element, and the reduction of the regular force, compelled the General to lay aside the galley before the end of the year. The plan itself so novel on the western waters, however, shews the military readiness of its author, who was never at a loss for expedients suited to his situation.

In September, 1781, a station settled by 'Squire Boone, (a brother of the great hunter, and unequalled woodsman,) near where Shelbyville is now built, became alarmed at the appearance of Indians in its neighborhood; and determined to remove to the stronger settlements on Beargrass. While effecting this purpose, the party encumbered with women, children, and household goods, was attacked by a large body of the enemy near Long Run, defeated and dispersed with considerable loss. Col. John Floyd learning this disaster, repaired with honorable promptitude, with twenty-five men, to relieve the white party, and chastise the Indians. He advanced with commendable caution, dividing his men into two parties; and yet, in spite of his prudence, he fell into an ambuscade of two hundred Indians. He was defeated with the loss of half of his men, and nine or ten of the Indians were killed. While Colonel Floyd was retreating on foot, nearly exhausted and closely pursued by the Indians, Captain Samuel Wells, who retained his horse, dismounted and gave it to Floyd, and ran by his side to support him. The magnanimity of the action is enhanced by the previous hostility between these officers, which was, however cancelled forever*—"they lived and died friends."

After this officer had effected the establishment of fort Jefferson, on the Mississippi, to be noticed hereafter, he proceeded with two men, Josiah Harland, and Harmar Conolly, on foot, to Harrodsburg. The perils of such a march, can scarcely be appreciated at this day. They had painted themselves like Indians, and had advanced without interruption, as far as the Tennessee river. This they found foaming with high water,

* Colonel Floyd's letters.

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and Indians were hunting on both sides of the river. Our chief and his companions, quickly fastened a raft together, with grape vines, to support their rifles and clothes, and dashed into the river, in its state of flood. They had got some distance, before they were perceived by the Indians, owing to the high banks; when the enemy discovered them, they quickly exchanged whoops of intelligence. But our party availing themselves of a deep creek, which put in on the opposite side of the river, placed it between them and their pursuers, by landing below its mouth, while the Indians had to ascend the stream for a passage; the former having landed, dashed on their destination. By this manœuvre, they escaped. Yet to their own countrymen their disguise was so complete, that in approaching a fort on Red river, they were mistaken for Indians; and it was only the name of Clark loudly hallooed out, and the knowledge of his exploits, that removed the impression.

On this route, our party met with a large body of emigrants, forty in number, actually starving from inexperience of the hunters among them, in killing buffalo. The high hump of this animal on its shoulder, requires an allowance by a practiced eye, to hit the heart; this source of error was unknown to the new comers, and all their balls missed killing their objects. Clark and his companions soon set them right with the first herd of buffalo they met, after their rencounter, by killing fourteen head before they stopped. It seems, that skillful hunters can arrange themselves so as to run parallel with a herd of buffalo, killing and loading as far as they can run. This conduct of our hunters struck the group of strangers with such astonishment, when they contrasted the success of the three new hunters, with the failure of their own men, themselves expert woodsmen, with all other game; that they were ready to look upon Clark and his two coadjutors, as something more than mortals in disguise. A party thus strangely rescued from starvation, in the midst of wild game, might well be disordered in their judgments at first.

On arriving at Harrodsburg, Clark found a concourse of people from every direction, waiting to enter lands in the sur-

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veyor's office. This was the engrossing subject of all men's thoughts; as eagerly and with as much avidity, amidst these hostile forests, as in any stock market of a commercial city. To propose a military expedition, demanded by the interests of the country, to men under such keen and potent excitement, would have been worse than useless. Should the more generous and gallant engage in it, they would leave the selfish and the grasping speculator behind, to despoil them of the richest fruits of the country, which they were defending. In this predicament, Clark proposed to Mr. G. May, the surveyor of Kentucky county, to shut up his office, and then all would turn their attention to the defence of the country. This Mr. May declared he had no authority to do; but if General Clark would issue such an order, he would be the first man to obey it. The General accordingly caused a written order to be placed on the door of the surveyor's office, notifying all persons, that the office was shut by an order from Brigadier General Clark, until after *an expedition could be carried on against the enemy. This measure, and the high military popularity possessed by General Clark, commanded any number of volunteers, in addition to his own State regiment, which was garrisoning Fort Nelson at the Falls of Ohio. The expedition commanded by Clark, consisted of two regiments, one under command of Colonel B. Logan, and the other under that of Colonel William Linn. The point of rendezvous for both, was the mouth of Licking river, where they assembled with artillery conveyed up the river from the Falls. The force when all assembled, amounted to nearly a thousand men.†

The secrecy and dispatch, which had ever attended the movements of this efficient commander, continued to mark his progress on this occasion; the Indian town was approached without any discovery, and as soon assailed, when a sharp conflict ensued, in which seventeen of the enemy were slain, with an equal loss upon our part. The rest fled, the town was

* When Colonel Clark arrived at the Falls, he received a letter from Governor Jefferson, advising such an expedition, written 19th of April, but not received till 11th of July, following.

† Captain Patton says nine hundred and ninety-eight.

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then reduced to ashes, the gardens and fields laid waste; such are the melancholy means of carrying on war with barbarian tribes, who without the intervention of a large civil body of society, not partakers in the war, can only be made to feel its horrors, by bringing home to themselves the dreadful sufferings which they inflict.

From Pickaway, Colonel Benjamin Logan was detached against another Indian town, about twenty miles distant. This was, however, found deserted, and it was destroyed by our troops, as well as a store (British, it is presumed,) from which the Indians had been supplied with arms and ammunition. This latter object, indeed, formed the principal aim of the party. Owing to these offensive measures, Kentucky enjoyed some breathing time, while the Indians were engaged in rebuilding their habitations, and obtaining provisions by hunting, to supply the loss of their crops.

CHAPTER VIII.

Kentucky county divided into Lincoln, Fayette and Jefferson—Erection of Fort Jefferson on the Mississippi—Spanish and French intrigues at Paris against the western boundary of the United States—McKee and Girty—Attack on Bryant's Station—Battle of the Blue Licks—Expedition of General Clark to the Chilicothes in 1782—Early manners and state of the arts in Kentucky.

By the first of November of this year, the population of the State had advanced with such rapid strides, that the legislature of Virginia sub-divided the *county* of Kentucky into three parts; assigning different names to each. They were called *Jefferson*, *Fayette*, and *Lincoln*. The former embraced that part of the old county, which lay south of the river Kentucky, north of Green river, and west of Big Benson and Hammond's creek; the second beginning at the mouth of the Kentucky river, extended up its middle fork to the head, and embraced the northern and eastern portion of the present State on that side of the Kentucky; the residue of the primitive county was called Lincoln.

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The establishment, however, of fort Jefferson, formerly mentioned, provoked an attack upon it by the Chickasaws and Choctaws, on whose lands it was built, without their consent. A purchase had, however, been positively instructed to be made of the Indians, by the Governor of Virginia; though the circumstances which prevented it are now unknown. In resentment it is supposed, of this threatening intrusion, Colbert, a Scotch gentleman who had ingratiated himself with these Indians, and the ancestor of the present chiefs of that name, appeared with all his warriors before fort Jefferson, in the summer of 1781. The attack, it is said by one, who was a boy in the fort at the time, lasted five days. The Indians principally encamped on the island opposite to the fort, now known as island No. 1, just above Mayfield's creek. The garrison not exceeding thirty men, under Captain George, (two-thirds of whom were sick with the ague and fever) were reduced to the lowest extremity. Pumpkins, with the blossom yet on them, afforded their principal food. On the sixth day Colbert and George met under a flag of truce, to agree upon terms of capitulation; but they were unable to effect it. As Colbert was retiring, he received a wound from *some of the Indians, who were with our men in the block-houses, and fell. This treachery according to our own usages, enraged the Indians to the utmost pitch of exasperation: at night they collected all their forces, and made a furious assault upon the fort, endeavoring to take it by storm. When the Indians had advanced in very close order, Captain George Owen, who commanded one of the block-houses, had the swivels loaded with rifle and musket balls, and fired them in the crowd. The consequent carnage was excessive, and dispersed the enemy. At the same time General Clark, who was stationed at Kaskaskia, and had been sent for, arrived with provisions and a reinforcement, which effectually raised the siege, to the great relief of the garrison.

This fort was some time afterwards abandoned, from the difficulty of supplying such remote and detached posts. It is worthy of remark, that the State of Kentucky, goaded to madness

* Captain Patton's papers.

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as she has been by Indian outrages; submitted to the occupation of the south-western section of her territory by the Chickasaws, until their title was peaceably extinguished by the treaty of 1818, with that tribe. The fact offers an exemplary regard for aboriginal claims, which may well dictate a lesson of forbearance with the tribes of the forest, to all the members of the confederacy.

The opening of 1782 was marked by several successful enterprises on the part of the enemy, with more than usual fatality to the whites. They were the precursors to misfortunes of deeper dye, and more extensive calamity, than had yet befallen our harrassed countrymen. Among other calamities of the times Laughery's defeat should not be omitted. This officer was coming down the Ohio river, to join the Kentuckians with one hundred and seven men; he was attacked below the Great Miami, at a creek which still retains the name of the unfortunate commander, and the whole party was killed or captured.

*"In the month of May, a party of about twenty-five Wyandots, invested Estill's station, on the south of the Kentucky river, killed one white man, took a negro prisoner, and after destroying the cattle, retreated. Soon after the Indians disappeared, Captain Estill raised a company of twenty-five men—with these he pursued the Indians; and on Hinkston's fork of Licking, two miles below the Little Mountain, came within gunshot of them. They had just crossed the creek, which in that part is small; and were ascending one side, as Estill's party descended the other, of two approaching hills, of moderate elevation. The water course which lay between, had produced an opening in the timber and brush, conducing to mutual discovery; while both hills were well set with trees, interspersed with saplings and bushes. Instantly after discovering the Indians, some of Captain Estill's men, fired at them; at first they seemed alarmed—and made a movement like flight: but their chief, although wounded, gave them orders to stand, and fight—on which they promptly prepared for battle, by each man taking a tree, and facing his enemy, as nearly in

* Marshall, 1, 126.

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a line as practicable. In this position they returned the fire, and entered into the battle, which they considered as inevitable; with all the fortitude, and animation of individual, and concerted bravery; so remarkable in this particular tribe.

"In the meantime, Captain Estill, with due attention to what was passing on the opposite side, checked the progress of his men at about sixty yards distance from the foe, and gave orders to extend their line in front of the Indians, to cover themselves by means of the trees—and to fire, as the object should be seen, with a sure aim. This order, perfectly adapted to the occasion, was executed with alacrity, as far as circumstances would admit, and the desultory mode of Indian fighting was thought to require. So that both sides were preparing, and ready, at the same time, for the bloody conflict which ensued: and which proved to be singularly obstinate.

"The numbers were equal; some have said, exactly twenty-five on each side—others have mentioned, that Captain Estill, upon seeing the Indians form for battle, dispatched one or two of his men, upon the back trail, to hasten forward a small reinforcement, which he expected was following him; and if so, it gave the Indians, the superiority of numbers, without producing the desired assistance, for the reinforcement never arrived.

"Now were the hostile lines within rifle shot—and the action become warm and general to their extent. Never was battle more like single combat, since the use of fire-arms; each man sought his man—and fired only when he saw his mark—wounds and death were inflicted on either side—neither advancing nor retreating. The firing was deliberate—with caution they looked, but look they would for the foe; although life itself was often the forfeit. And thus both sides firmly stood—or bravely fell—for more than one hour: upwards of one-fourth of the combatants had fallen never more to rise, on either side, and several others were wounded. Never, probably, was the native bravery or collected fortitude of men, put to a test more severe. In the clangor of an ardent battle, when death is forgotten, it is nothing for the brave to die—when even cowards die like brave men—but in the cool and lingering expectation

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of death, none but the man of true courage can stand. Such were those engaged in this conflict. Never was manœuvering more necessary, or less practicable. Captain Estill had not a man to spare from his line, and deemed unsafe any movement in front, with a view to force the enemy from their ground; because in such a movement he must expose his men, and some of them would inevitably fall, before they could reach the adversary. This would increase the relative superiority of the enemy—while they would receive the survivors with the tomahawk in hand; in the use of which they were practiced and expert. He clearly perceived that no advantage was to be obtained over the Indians, while the action was continued in their own mode of warfare. For although his men were probably the best *shooters*, the Indians were undoubtedly the most expert *hiders*—that victory itself, could it have been purchased with the loss of his last man, would afford but a melancholy consolation for the loss of friends and comrades; but even of victory, without some manœuvre, he could not assure himself. His situation was critical; his fate seemed suspended upon the events of the minute; the most prompt expedient was demanded; he cast his eyes over the scene; the creek was before him, and seemed to oppose a charge on the enemy—retreat he could not. On the one hand, he observed a valley running from the creek, toward the rear of the enemy's line; and immediately combining this circumstance with the urgency of his situation, rendered the more apparently hazardous, by an attempt of the Indians to extend their line, and take his in flank; he determined to detach six of his men by this valley, to gain the flank or rear of the enemy; while himself, with the residue, maintained his position in front.

"The detachment was accordingly made under the command of Lieutenant Miller; to whom the route was shown, and the order given, conformably to the above mentioned determination: unfortunately, however, it was not executed. The Lieutenant, either mistaking his way, or intentionally betraying his duty, his honor, and his Captain, did not proceed with the requisite dispatch—and the Indians, attentive to occurrences,

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finding out the weakened condition of their adversaries, rushed upon them and compelled a retreat, after Captain Estill and eight of his men were killed. Four others were badly wounded, who, notwithstanding, made their escape; so that only nine fell into the hands of the savages, who scalped and stripped them of course.

"It was believed by the survivors of that action, that one-half of the Indians were killed, and this idea was corroborated by reports from their towns.

"There is also a tradition that Miller, with his detachment, crossed the creek—fell in with the enemy—lost one or two of his men—and had a third or fourth wounded before he retreated.

"This action is said to have lasted two hours, and there seems to be nothing wanted in its circumstances but numbers, with the pomp and tactics of modern war, to make it memorable. Memorable it will be to those friends of the brave defenders of their country, whose heart received the pang given by the report of this event—memorable it will be to the few who survived it—whether by absconding with the Lieutenant, in a moment of dismay, they forfeited the praise which they had previously merited—or by standing with their Captain until his fall, they yielded to superior numbers, a victory which was due to their courage and fidelity—and which a superior force alone could have extorted from them. Memorable it will also be in the simple annals of Kentucky, for the equality of the opposing numbers—for the great fortitude with which it was maintained—for the uncommon proportion of the slain—for the error of the Lieutenant—and for the death of the Captain. In grateful remembrance of the personal bravery and good conduct of Captain Estill, a county of the Commonwealth perpetuates his name.

"In reviewing the incidents of this battle, the conduct of the Indians cannot fail of commanding attention. Their determined bravery, their obstinate perseverance, the promptitude with which they seized on the absence of the detachment to advance on their enemy; and thus by a step not less bold than judicious, to ensure to themselves a victory of immortal renown: conduct

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alike bespeaking the possession of skill in war, and a training to command which could but render them formidable, and even victorious.

"The result of this action had the most serious effect upon the minds of the inhabitants generally."*

The hostility necessarily incident to the hunter state, against the white intruders, as they deemed our people, who were destroying their game, the principal source of Indian subsistence; circumscribing their hunting grounds, and attacking their towns whenever they found it convenient; could want but little excitement to direct their exertions against Kentucky. Yet the passions of the Indians are said to have been particularly exasperated by speeches from McKee and Girty; white men who had abandoned their own countrymen from disappointments in military promotion, under Pennsylvania, as it is said, and had united with the British and Indians. Headed by these renegades, but particularly by Simon Girty, on the evening of the 14th of August, 1782, a body of Indians from various tribes, extending from the Lakes to the Mississippi, to the computed number of five hundred, suddenly assembled round Bryant's station. This place has been previously mentioned, and would be briefly passed over now, were it not for its connexion with the fatal battle of the Blue Licks. This fort was situated on the left of the present road from Lexington to Maysville, immediately on the southern bank of Elkhorn; the fort contained about forty cabins, placed in parallel lines, connected by strong palisades, and was garrisoned by about forty or fifty men. The enemy

* It would be unpardonable to omit on the subject of Estill's defeat, the beautiful panegyric upon it expressed by Chief Justice Robertson in the case of Conley's heirs against Chiles—*5th Marshall's Reports*.—"The battle was fought on the 22d of March, 1782, in the now county of Montgomery, and in the vicinity of Mountsterling. It is a memorable incident, and perhaps one of the most memorable in the interesting history of the settlement of Kentucky. The usefulness and popularity of Captain Estill; the deep and universal sensibility excited by the premature death of a citizen so gallant and so beloved; the emphatic character of his associates in battle; the masterly skill and chivalric daring displayed throughout the action, ("every man to his man, and each to his tree;") the grief and despondence produced by the catastrophe; all contributed to give to "ESTILL'S DEFEAT," a most signal notoriety and importance, especially among "the early settlers." All the story with all its circumstances of locality, and of "the fight," was told and told again and again, until even the children knew it "*by heart*." No legendary tale was ever listened to with as intense anxiety, or was inscribed in as vivid and indelible an impress, on the hearts of the few of both sexes, who then constituted the hope and strength of Kentucky.

"Such is the traditional as well as the recorded history of this sanguinary battle between the white men and the Indians; and such, too, is the testimony embodied in this cause."

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showed themselves suddenly the next morning, when some of the garrison were in the adjacent cornfield, and others absent, though not far from the station, with a good deal of the recklessness, too characteristic of the times. Some of these in the neighborhood got safely into the fort, while others communicated the alarm to Lexington, and other neighboring stations; whence assistance was immediately and gallantly furnished. The place was closely invested for the two ensuing days; during which the Indians kept up a continual fire, by which four men were killed and three wounded. The enemy made several attempts to fire the cabins, by shooting lighted arrows on the roofs, and even attempted to fire the log walls with torches, all ineffectually. After sustaining a loss of about thirty warriors in their various bold, but unskillful attempts; the Indians departed on the morning of the fourth day. They left their fires burning, and also bits of meat on the roasting sticks, which served instead of spits. They returned along the great Buffalo trace by Ruddle's and Martin's stations, which had been laid waste two years before; although out of their direct course to the Lower Blue Licks. Indeed their retreat showed, that there was no wish to conceal their trail, or avoid a battle. On the contrary, every indication had been given, so contrary to the cautious and secret tactics of Indians, that they desired an encounter. In the mean time, Colonel John Todd, of Lexington, Lieutenant Colonel Trigg, of Harrodsburg, and Colonel Boone, of Boonesborough, with Majors McGary, Harland, and Levi Todd, at the head of about one hundred and eighty-two men,* repaired to Bryant's station. By the 18th, the detachments had assembled, and it was concluded to proceed in pursuit of the enemy, without waiting, (as urged, it is said, by McGary,) for a large reinforcement, presumed to be collecting by Colonel Ben. Logan. It immediately struck the more experienced of the party, on their march, and particularly Boone, that the chopping the trees along the Indian trail, shewed a willingness on their part, to be pursued; and at the same time, the contracting of their camp and using few fires, where they stopped

* Clark's Papers.

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to eat, indicated a design to mask their numbers. These circumstances it was thought called emphatically for caution; still, no Indians were seen until the party reached the southern bank of Licking, at the Lower Blue Licks. A few of the enemy were then seen by the Kentucky troops in front, leisurely and without any apparent alarm, retreating over the ridge. A halt was then called, and a council of officers held, to adopt the best plan of operations: whether to attack immediately, or to reconnoiter, and wait for the reinforcements coming up under a most experienced Captain. Colonel Boone delivered it, as his opinion to the other officers, much less skilled in such matters than himself, that the Indians might amount to three or five hundred, from the ambiguous *sign*, which they had made on the road; that the main body must be near, and prepared for action. He said he was particularly acquainted with the ground about the Licks; which is indeed remarkable: the river forming an abrupt bend, includes a ridge on the north side, passing between two ravines, which extend to the river, like the sides of an angle or wings of a net; here, he most sagaciously conjectured, the Indians had formed an ambuscade, and were lying in wait for them.*

To counteract their plan, he proposed to divide the Kentuckians into two parties, to send one-half of the men up the river, as high as a small creek called Elk, to cross over to a ridge outside a ravine on the right; while the other half of the troops should occupy the high ground north of the Licks, ready to co-operate with the right wing: or else to reconnoiter the ground well, before the main body crossed the river. The council were only hesitating between the two plans, when Major McGary, in defiance of all subordination, raising the warwhoop, called out, "Those who are not cowards follow me; I will show them where the Indians are," and spurred his horse into the river. The unhappy example was contagious among the fiery spirits assembled, unchecked by any commanding genius; and the whole expedition passed the river without order or concert; following the road which McGary kept in

* Marshall, 1, 136.

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front. Parties flanked off as the the rough, naked, and irregular surface would admit. It must be noticed, that the ground within the bend of the river was covered with rocks laid bare by the trampling of the buffalo which resorted to the Licks, and by the washing of the rains; it presented only a few scattering trees. The body of the troops headed by McGary, Harland, and McBride, formed a broken line corresponding with the ridge, which has been mentioned, and parallel with, and between the ravines, which were filled with Indians, concealed by a short growth of timber. No sooner had McGary entered the woods at the head of the ravines, than the action began with great warmth and effect, which our men returned with equal vigor, while they could keep among the trees; but they were soon driven into the naked plain, between two fires from the Indians, who doubled them in numbers. Soon the conflict was discovered to be desperate on our side; nearly the whole of the men had fallen, as well as Colonel Todd and Major Trigg, McBride, and Harland. The Indians were turning the rear and rushing upon our men with the tomahawk, when the retreat was commenced. But there was but one point of escape, and that by a narrow ford at the lower part of the bend, or by swimming the river. Here all were rushing together, to avoid the horrors of Indian massacre, or captivity, not less dreadful. The execution was prodigious in the crowded disorderly retreat to the river and in the water, for a battle fought by backwoodsmen; who, in general, have been as cautious and sparing of blood, as their red enemies. In this extremity, the unhappy fugitives were greatly assisted by a halt, ordered by one Netherland; who, having crossed to the southern side, called to his fellow soldiers to fire on the Indians, and protect the men in the river; the exhortation was regarded by a few, and checked the pursuit of the enemy for a short time; by which many were saved. The Indians soon, however, crossing above and below, further flight became inevitable, and it continued for twenty miles with little loss.

An instance of generous forgetfulness of self which took place in this retreat, ought not to be omitted for its intrinsic

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moral beauty, and for the relief it affords from the disgusting tale of slaughter and destruction, which occur with such baleful monotony on both sides, in these early border wars. Still it is only a picture of the calamities, which have attended the hostilities with barbarians in other ages and countries; but particularly on the marches or frontiers. Scots and English, English and Welsh, the chappows of Turcomans and the forays of feudal times, have presented the same features. The great lesson this truth furnishes, ought eternally to admonish the people of these States, against creating the same excitements to all the fiercer and malevolent passions, which a dissolution of the present glorious Union of the States, would inevitably administer to the nation.

The incident alluded to above, is as follows: Captain Robert Patterson, exhausted by the retreat and wounds received in former battles, was overtaken by a young man of the name of Reynolds, on horseback; the latter immediately dismounted, placed Patterson on his saddle, and took his own chance on foot. Patterson escaped, but his generous friend was seized by three or four Indians, who deprived him of his arms, and left him in charge of one of their companions, while they engaged in further pursuit. The Indian in charge of Reynolds, had occasion to stoop in order to tie his moccason, the latter seized the opportunity to snatch the Indian's gun, to knock him down, and effect his own safety, which he happily accomplished. In return for his magnanimity, Patterson presented Reynolds with* "two hundred acres of first rate land:" a reciprocation of good offices, which ever has constituted the essence of virtue and true excellence of heart. The loss in this battle was heavier than ever experienced in Kentucky before; out of one hundred and seventy-six men, sixty were killed and seven taken prisoners; the great part of the Harrodsburg men fell in the front, at the first onset; for the battle only lasted from †five to fifteen minutes. Numbers, unfeeling as the remark may appear, are by no means the same criterion of loss in our agricultural state of society, as in the hunter state. Losses, which are rapidly repair-

* Marshall 1, 141. * Compare Marshall 141, and Boone's Narrative, 29.

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ed by our superior rate of increase, are fatal to the inferior progress of savage society; yet what a triumph is this, that we can afford to *kill down* our adversaries! It converts our superiority into one of population, rather than one of arms, and is well calculated to moderate our boasting over the rude warriors of the forest. Colonels John Todd and Stephen Trigg, were particularly deplored for their eminent social and private worth, distinguished intelligence, and urbanity of manners; qualities which are inestimable, as public models and guides to society in a forming state like that of our nascent Commonwealth. Of Major Harland, it is affectingly said, no "officer was more brave and none more beloved in the field." It is due to the memory of Major McGary (who was a man of courage almost too fierce for Indian battles, much less for pacific society) to state that he is said to have counselled a delay at Bryant's for twenty-four hours, until Logan could arrive with his powerful reinforcement. This was rather tauntingly rejected as it is alleged, by Colonel Todd, who in the honorable ambition of a brave man, was fearful of the escape of the Indians, and was apprehensive that he should lose this opportunity of distinguishing himself by the arrival of his senior Colonel. McGary unhappily, and too fiercely resented this treatment; and in a spirit of lamentable revenge, determined to force a battle at the hazard of any consequences to his fellow-soldiers and to his country. On the 20th, Colonel Logan reached the battle ground with four hundred and fifty men; but too late to do any thing except bury the mangled and disfigured dead. From this scene of bloodshed and massacre, under their most horrid aggravations on the part of the Indians, the reader's attention must be directed to its retaliation with little less ferocity, by the hands of our exasperated countrymen. Indeed it is worse than vain, to attempt to adjust the equity of wars between savages and a people however faintly civilized, by investigating any one individual transaction on either side, upon the ordinary principles of social justice. There is a deeper root of natural incompatibility between the two states of man, which nothing can reconcile; and it is this principle, which must govern our final judgment upon the

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conduct of races of men in such opposite and irreconcilable states of society. Let it not be supposed, the author is insensible to the eternal truth, that the obligations of justice and mercy are as universal in their force, as the existence of sentient beings; or that he is not alive to iniquity practiced upon savage nations; but the doctrine he means to assert is, that the mass of mutual wrongs and sufferings inflicted by men, in inconsistent states of society, like those of the hunter and the agriculturist, are not to be attributed to the ferocious dispositions of either party *alone*. They must be traced to a deeper source, which the most benevolent dispositions could not dry up, and but feebly stop. The Indians have faded away before the benevolence of Penn; "the *property line*" of the colonial authority and all the considerate reservations of land and privilege by the older States, nearly as rapidly as before fiercer measures, and more merciless dealing. No barrier can be raised, which will effectually protect the one state of society from the annihilating encroachments of the other; it is a war of social condition, and not of individual character, in which there can be neither long truce nor durable peace. It seems to be the decree of Providence, and no doubt for the wisest purposes, that the barbarous state of man should utterly yield, and be merged in his civilized condition. These reflections have been thought appropriate to the occasion, and may serve as a final commentary upon our Indian wars, which are to be viewed in every respect like the conflicts of the elder nations of the eastern continent with their barbarous neighbors, from the earliest records of social contention.

It is time, however, to return to the retaliatory expedition of General Clark, which gave rise to these remarks. The General invited a meeting of the superior military officers of his brigade at the Falls, to make arrangements for an imposing expedition against the Indians. This council recommended a draft of men to make up any deficiency of volunteers, and the impressment of provisions and horses, where voluntary contributions were not sufficient. The spirit and patriotism of the country rendered these coercive measures unnecessary; men

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and officers presented themselves with the utmost eagerness, and "beeves, pack-horses, and other supplies" poured in abundantly from those who could not personally join the expedition. In every case of property offered or impressed, a certificate of its valuation was given as evidence to its owner, for future compensation; at that time deemed by no means certain. "Bryant's station was appointed the rendezvous for the upper part of the country; the Falls of the Ohio for the lower, and the mouth of Licking the point of union" for the different detachments. General Clark assumed the command, with Colonels Floyd and Logan under him; these officers at the head of about one thousand mounted riflemen, assembled at the appointed spot on the last of September, 1782. The expedition proceeded with the efficiency ever characteristic of its chief, while in the pride of his energy; and reached the neighborhood of the first Indian town, and within half a mile of a camp, which formed the rear of the triumphant party, from the battle of the Blue Licks. An Indian straggler now discovered the hostile force, and gave the alarm of "a mighty army on its march."* The savage camp was immediately evacuated, and the alarm conveyed to the different towns. This most unpropitious discovery left nothing but empty cabins and deserted fields, to satisfy the resentment of the whites. The buildings were quickly fired, and the cornfields laid waste, seven prisoners were taken, and three of the enemy killed in this expedition; it extended its ravages through the different Chilicothes, Pickaway, and Will's-town, with the same desolating effect. This campaign, trifling as its execution may seem, appears to have put an end to the *formidable* Indian invasions of Kentucky; after this period, it was only exposed to stragglers and small parties. Such an effect must be attributed to so overwhelming a display of force, immediately after the disastrous battle of the Blue Licks.

The opportunity now seems favorable to notice the spirit and manners of society in these primitive times of Kentucky history. Until nearly this time, the proportion of females had

* Marshall 1, 147.

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been small, painfully so, to the gallantry and devotion of the males; it was now no longer felt, and a licence to marry is said to have been the first process issued by the Clerks of the new counties. A law suit did not at this time, exist in Kentucky; since so unfortunately loaded with litigation about the very homes and the firesides of her citizens. Our first settlers were necessarily composed *in general*, of those who had braved and enjoyed the perils and enterprise of settling the frontiers of the adjacent States. Few others could support the hardships, or would encounter the dangers and difficulties, which environed a residence in these dark and bloody grounds, as the term *Kantuck-kee, or Kentucky, is said to mean in the Indian dialect. The duties of the household, in the happy absence at that time, of slaves, (would to God Kentucky could always have escaped the curse and the iniquity of their condition,) were discharged by the females. They milked the cows, prepared the meats, spun and wove the garments of their husbands and children; while the men hunted the game of the woods, cleared the land, and planted the grain. To grind the Indian corn into meal on the rude and laborious handmill; or to pound it into hominy in a mortar, was occasionally the work of either sex. The defence of the country, the building of forts and cabins, fell most properly to the share of the men; though in those hardy times, it was not at all uncommon for females, during a siege, to run bullets and neck them for the rifle. Deer skins were extensively used for dress, to compose the hunting shirt, the long overalls, the leggins, and the soft and pliable moccasons; the buffalo and the bear furnished the principal covering for the night. Handkerchiefs tied round the head had often supplied the place of hats; strips of buffalo hide were used for ropes. Stores or shops were unknown; wooden vessels either prepared by the *turner*, the *cooper*, or their rude representatives in the woods, were the common substitutes for table furniture. †"A

* The author has been unable to confirm this popular etymology, by the inquiries he has made of those conversant in the Indian languages. The Kentucky river is called Cuttawa by Lewis Evans, in his map of the middle colonies published at Philadelphia in 1755. It is called Kentucke or Cuttawa in Wayne's treaty of 1795.

† Marshall 1, 123.

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tin cup was an article of delicate luxury, almost as rare as an iron fork." Every hunter carried a knife, too aptly called a *scalping knife*, in the hands of the white man, as well as in those of the Indian; one or two knives would compose the cutlery for families, never *deficient* in their numbers. The furniture of the cabin was appropriate to the habitation; the table was composed of a slab, or thick flat piece of timber, split and roughly hewn with the axe, with legs prepared in the same manner. This latter instrument was the principal tool in all mechanical operations, and with the adze, the auger, and above all, the *rifle*, composed the richest mechanical assortment of Kentucky. Stools of the same material and manufacture, filled the place of chairs. When some one more curiously nice than his neighbors, chose to elevate his bed above the floor, (often the naked ground,) it was placed on slabs laid across poles, which were again supported by forks *driven* into the *floor*. If, however, the floor happened to be so luxurious, as to be made of puncheons, (another larger sort of slabs,) the bedstead became hewed pieces, let into the *sides* of the cabin by auger holes in the logs. It is worth while to mention, that the cradle of these times, was a small rolling trough, much like what is called the sugar trough; used to receive the sap of the sugar maple. Still the food in these rude habitations, and with this rough and inartificial furniture, was the richest milk and finest butter furnished by the luxuriant pasture of the woods, covered with the rich pea vine and the lucious cane. The game of the country it has been already seen, struck the experienced eye of even Boone, as profuse beyond measure; it was the theme of admiration to every hunter: nor did the abundance afford slight assistance to the whites, in their conquest of the land.

It has often been remarked, that Kentucky could never have been maintained against the Indians, had it not been for the ample store of provisions, which the forests supplied. The enemy would never have permitted provisions to have been transported, or to have grown by the slow and peaceable processes of farming; and the consequence must have been, that the stations would have been starved into surrender; but for the

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providential supply of the deer, the buffalo, and the bear. These were to be obtained by every gallant rifleman; and this so abundantly, that the buffalo has often been shot in order to enjoy either its hump or its tongue. The hospitality of these times, was much less a merit than an enjoyment; often a protection to both parties. The fare was rough, but heartily and generously divided with every fellow woodsman.

It would not, however, be justice to the manners and character of the present state of society; any more, than to those of the times we are describing, to conclude the portrait here. Hardihood, bravery, endurance of suffering and generosity, were prominent and undeniable features in the character of the first settlers of Kentucky. These qualities are attested by the whole history of their gallant, hardy, and magnanimous deeds, in the conquest which they made of this lovely land, from such wily, ferocious, and formidable tribes of Indians, assisted by the ample resources of Great Britain. Literature and science with their train of humanizing arts, and the thousand delightful excitements to activity of mind, which they furnish, it would be worse than folly to expect in these, not misnamed, barbarous and primitive times of Kentucky. Government was nearly as simple, as the impalpable policy, subsisting among the Indians; the complexities of law were uncalled for in this condition of few wants, and nearly universal means of gratifying them. Trade, there was none; for there was nothing yet to give in exchange. Did any man want land? He could occupy any quantity that he could defend against the Indians. Did he want clothing or subsistence? His rifle would furnish any supply of either, which his activity and his industry could command. Avarice and the love of gain had scarcely at first a temptation to develope them. What a chasm must then have existed, to be filled by one of the fiercest and most insatiate passions of the human mind! Still let it not be supposed, that our early society was quite one of Arcadian fiction. Though politics did not distract the community with their noisy din and bitter contentions; though traffic and labor did not furnish their topics of strife, and sources of discontent; still there was no

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absence of rivalry, and that pursued with sufficient bitterness. They would dispute who was the best shot, who the most supple wrestler, the strongest man, or the "best man" in a fight; nor were these disputes always bloodless; and even sometimes were settled with the knife and the rifle. The female sex, though certainly an object of much more feeling and regard, than among the Indians, was doomed to endure much hardship, and to occupy an inferior rank in society to her male partner. In fine, our frontier people were much allied to their cotemporaries of the forest in many things, more than in their complexions.

To be sure this is but a general sketch of the early mass: there were among them, men of finer mould and superior character, who would have adorned any state of society; and these remarks must be severely restricted to the body of the earliest emigrants. This picture has little or no resemblance of Clark, of Harrod, and Boone; Bullitt and Logan; Floyd, the Todds, and Hardin; and no doubt many other noble spirits, who were the lights and guides of their times. It was a state of society peremptorily *extorting* high physical faculties; more than mental exertions, or artificial endowments. When, therefore, we learn that Boone, Harrod, and Logan, were little advanced in artificial learning; let no reader be so unjust or unthinking, as to treat their memory with contempt. Letters could have ill supplied their manly spirit, their vigorous frames, and above all, their talents and tact in commanding the respect and confidence of a rough and fierce class of men, while living; and which excited their sincerest regrets, when dead. These gallant and magnanimous hunters of Kentucky, will ever be sacred to the hearts of all lovers of brave and noble deeds; however they may have been unadorned by the polish and beauty of learning. Charlemagne was no less the emperor of the west of Europe; he was no less the master spirit of his time, stamping his impress on his generation, because he *signed*, and could not artificially subscribe his name. Artifical education, or the learning of books, is too often confounded with that higher education, consisting in the development of the mind, inspired by surrounding circumstances, and

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which is open to all the children of man, whether favored by civilization or not.

The religion of these times most necessarily have suffered amidst the pressing privations surrounding the inhabitants; it could not have been greatly cultivated amidst the struggles with want, and battles with Indians. Yet the heart of the hardiest male, much less of the softer sex, must often have melted with reverence for that Being, whose secret and invisible providence watched over their weakness, and saved them from the perils of the rifle and the tomahawk. True, many fell victims to the Indians; many were burned and tortured, with every refinement of diabolical vengeance; others were harrowed with the recollection of their childrens' brains dashed out against the trees; the dying shrieks of their dearest friends and connexions; still the consolations of heaven, were not absent from the dying spirits of the former; or the wounded hearts of the latter. In the beautiful poetry of Bryant:

> "The groves were God's first temples. Ere man learned
> "To hew the shaft, and lay the architrave,
> "And spread the roof above them, ere he framed
> "The lofty vault, to gather and roll back
> "The sound of anthems, in the darkling wood,
> "Amidst the cool and silence, he knelt down,
> "And offer'd to the Mightiest, solemn thanks
> "And supplication."

Temples and their ministers, important as they undoubtedly are, to a cultivation of a love for heavenly meditations, and the moral glories of another and higher state of being, are, let it never be forgotten, not indispensable. The religion of the heart, gratitude to God and love for man, flourish in the rudest stages of society; and not unfrequently with more purity, than amidst the accumulated temptations of refined life. There was, indeed, as might most naturally be expected, a roughness of exterior; (though conventional forms of society are never to be confounded with the essence of true politeness) there was too *exact* a retaliation of the savage warfare of their subtle and ferocious enemies; there was too little respect for the rights and moral claims of Indians; but to lie, to cheat, to desert a fellow

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hunter in distress, were vices unknown to the brave and simple men who conquered Kentucky. A manly love of truth and independence of spirit, which would right itself in "the court of Heaven," were almost invariable traits in their character.

There are some curious particulars in our early arts, which may well be recorded. *Hats were made of native fur, and sold for five hundred dollars in the paper money of the times; the wool of the buffalo, and the bark or rind of the wild nettle, were used in the manufacture of cloth, and a peculiar sort of linen out of the latter.

In December, 1781, the legislature of Virginia extended the scale of depreciation, at which her issues of paper money should be taken, from one and a half paper dollars for one hard or metalic dollar, to one thousand dollars in paper, for one in silver. The certificates of this depreciation, which were issued in exchange for the previous currency, were directed by law to be taken for taxes and for lands belonging to the State. The price of the latter was fixed at a specie valuation; but so reduced as to make them cost less than five dollars in hard money, or the paper price of the warrant was subjected to the scale of depreciation, so that land was obtained "for less than fifty cents per hundred in silver." A temptation to pour a flood of paper money on the lands of Kentucky, which trebled and quadrupled the land claims of the country, to its deep and lasting distress.

CHAPTER IX.

Land Titles—Attempts to sever Kentucky from the United States—John Jay resists them—Supreme District Court established—James Wilkinson—Commercial Association in Philadelphia—Settlement of Washington, in Mason county—Indian depredations—First Convention—Virginia agrees to a separation of Kentucky—Clark's unfortunate expedition in 1786—Colonel Logan's expedition.

During this comparative exemption from Indian hostility, the energies of Kentucky were now principally turned to the acquisition of land: this was particularly facilitated by the arrival of Colonel Thomas Marshall, and George May, as surveyors

* Marshall 1, 124.

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for the new counties of Fayette and Jefferson: these gentlemen opened their offices late in November, 1782, having been delayed by the grand expedition under General Clark. One office was opened at Lexington, and another at Coxe's station, in Jefferson county; the third has been already mentioned. Here commenced that scramble for land, which has distressed and desolated society in Kentucky almost as calamitously, as pestilence or famine. The original source of the misfortune was, leaving the survey of the country to individuals, and not doing it by public authority. Could the public lands of Virginia have been delayed in their survey and sale, until they had been laid off by public appointment, how happily might the claims of her regular soldiers, and her irregular, though scarcely less useful pioneers, in another field of her service, have been satisfied! The residue might have been snatched from the speculator and offered in open market for the benefit of her treasury. But other counsels prevailed, and Kentucky was opened to the conflicting claims of innumerable locators and surveyors, producing a lybarinth of judicial perplexities, through which it became necessary to pursue the landed property of the country, to place it in a state of security. It is not known what States besides those of New England, made their sales of land upon previous public surveys. This system was adopted so early as the 20th May, 1785, in regard to the public lands of the United States, and has most wisely been observed to this day.

On the subject of the legal condition of landed estate in Kentucky, the preface to Chief Justice Bibb's Reports, affords a sketch drawn by the hand of a master. The melancholy effects on the peace and prosperity of private citizens, volumes could not pourtray. The breaking up of favorite homes, improved at the hazard of the owner's life, and fondly looked to as a support for declining age; and a reward for affectionate children, swept away by refinements above popular comprehension, produced most wide spread discontent and distress; promoted a litigious spirit, and in some instances, a disregard of legal right in general, which had presented itself in such odious and afflicting aspects.

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The preliminary articles of peace between the United States and Great Britain, which had been signed on the 30th of November, 1782, were *not known in Kentucky until the spring of 1783; a singular illustration of the imperfect intercourse between the western section and the other parts of the country. While this history is writing, the ordinary rate of the mail from Louisville to Washington City, and Philadelphia, is only about a week or eight days to either place—showing the great disparity of time between the transportation of the mail now, and at the period to which we have already referred.

This is not the place to expatiate upon the honorable termination, to the labors and sacrifices of the patriots and sages of the Revolution; but the incidental operation which peace produced on our domestic hostilities, most strictly appertains to the affairs of Kentucky. The Indians alarmed at the approaching loss of their powerful allies, who had fed, and clothed, and armed them against their most hateful enemies, suspended their incursions into Kentucky.

It must be interesting as connected with the negotiation of peace, to observe the attempts which were so artfully urged, to sever Kentucky from the rest of the confederacy; and to notice how ably they were repelled. The first step in this insidious intrigue was taken by Count Lucerne, at Philadelphia, in conformity with instructions from Count de Vergennes, the French minister of State. On the arrival of the former gentleman, he lost no time in pressing †on Congress certain instructions for their ministers at Paris, pursuant to the following ideas: 1. "That the United States extend to the westward no farther than settlements were permitted by the British proclamation of 1763;" 2. "That the United States do not consider themselves as having any right to navigate the Mississippi, no territory belonging to them being situated thereon;" 3. "That the settlements east of the Mississippi" (embracing Kentucky with her southern neighbors) "which were prohibited as above, are possessions of the crown of Great Britain, and proper objects against which the arms of Spain may be employed for

* Marshall 1, 155. † Pitkin 2, 92.

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the purpose of making a permanent conquest for the Spanish crown," In consequence of adverse events happening to the American arms, Congress, on the motion of the delegates from Virginia, authorized by a resolution of the legislature in 1781, and assented to by all the southern States, with the exception of North Carolina, *instructed Mr. Jay, their minister at Madrid, "no longer to insist on the free navigation of the Mississippi below the southern boundary of the United States." Still these concessions were fruitless, and Spain would neither acknowledge American Independence, nor form any treaty; though she would †have granted any money required by the exigencies of America; provided Mr. Jay would have entered into her favorite scheme, of excluding all foreigners from entering the Gulf of Mexico by the rivers of the north. This independent firmness of John Jay, under the pressure of bills drawn upon him by Congress for half a million of dollars in *expectation* of Spanish assistance, must immortalize him among American patriots.

But notwithstanding the failure of this favorite Spanish scheme at Madrid, it was pressed again at Paris by the Spanish minister, Count Aranda, supported by Count de Vergennes, and his secretary, M. Rayneval, with the same happy result upon the same minister. This second failure, when supported with the whole influence of the French cabinet, is the more astonishing and honorable to the character of Mr. Jay; since the French minister at Philadelphia had the adroitness to persuade Congress in a moment of either despondency or of credulous confidence, to instruct its ministers at Paris ‡"to undertake nothing in the negotiations for peace or truce, without their knowledge and concurrence," meaning the concurrence of the King of France, "*and ultimately to govern yourselves by their advice and opinion.*" A step of degrading compliance, which, whenever this country may be again disposed to take, it had better surrender in form, an independence which she would no longer retain in reality. Yet armed with the perverted authority of their own government, the American plenipotentiaries extricated themselves from the toils pre-

* Jay's Life 1, 120. † Pitkin 2, 97. Idem 99. ‡ Idem 109.

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pared for them by a foreign court; and by firm and sagacious concert; brought their country out of war, into peace and independence, with exalted honor.

Let us now attend to some of the proposals which would have implicated the future condition of Kentucky.* The Secretary of the French minister of State, after a long argument to show that the rights of the United States were derived through Great Britain, and that she had acknowledged the Indians as an independent power belonging to neither party, proposed to run the boundary on the west to Fort Thoulouse, (the head of the Tombeckbee) and then by various points, which the author has been unable to identify in our more recent topography, to intersect the †"Cumberland river; whose course is to be followed until it falls into the Ohio. The savages to the west of the line described, should be free, and under the *protection of Spain;*" "the lands situated to the northward of the Ohio," *must be regulated by the court of London.*" Fortunately these joint intrigues of France and Spain were most adroitly counteracted by John Jay on his own *individual resposibility;* against the opinion of Dr. Franklin, and against his own instructions, though ultimately and cordially supported by both Franklin and the elder Adams, who joined the commission some time afterwards.

In March, 1783, an improvement of the judiciary in this distant section of the State, was directed by the legislature of Virginia, uniting the *three counties* into a district, to be called the District of Kentucky, with a court of common law and chancery jurisdiction co-extensive with its limits, and possessed of criminal jurisdiction. The District court was opened at Harrodsburg on the 3d of the month, by John Floyd, and Samuel McDowell as judges; George Muter did not attend until 1785, the two former appointed John May their clerk. Walker Daniel was likewise appointed by the Governor of Virginia, Attorney General for the District of Kentucky. This constitutes the third legislative alteration of Kentucky; 1. the *county* of Kentucky; 2. the three *counties* sinking the name of Kentucky; and now, 3. the *District*, reviving the name of Kentucky to

* Pitkins, 2, 139-140. † State papers, vol. 2, 169.

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go out, we trust, no more forever. This commenced the higher judicial organization; *at this time, no house at Harrodsburg could conveniently accommodate the court; and it adjourned to a meeting-house near the Dutch station, six miles from its place of meeting. The Attorney General and clerk were directed to fix on some *safe* place, near Crow's station, close to the present town of Danville, for holding the court; they were authorized to procure a *log* house to be built, large enough to accommodate the court in one end, and two juries in the other; they were likewise authorized to contract for building a jail of *hewed* or *sawed* logs, at least nine inches thick. This arrangement for buildings, so suitable to the poverty of the mechanic arts at this time, gave rise to the town of Danville; which continued the seat of the District court, and was the place of meeting for all the early public assemblies of Kentucky, Yet this ancient town, if any thing artificial in Kentucky is entitled to the name, has by some strange juggle of political intrigue, ceased to be the seat even of a county: may its college and its benevolent asylum for the deaf and dumb, compensate the inhabitants of this delicious section of Kentucky, for the wayward tricks, of which they have been made the victims.

Society now rapidly assumed the character of older and riper communities. A fertile soil, liberty and peace, soon spread their benign effects over the land. In consequence, the fields smiled with the heavy crops; cattle and hogs throve in the rich range of the woods to an astonishing degree. Emigrants diffused considerable money, and labor was well rewarded. Mechanics, divines, and schoolmasters, fast followed to fill up the picture. Several crops of wheat were raised on the south side of the Kentucky river; some distilleries were erected for the distillation of spirits from Indian corn.

This year was likewise distinguished by the opening of western trade with the fair and opulent city of Philadelphia, by Daniel Broadhead, who brought merchandise from that place in wagons to Pittsburg, and thence in boats to Louisville; where it was offered for sale, and thus established, it is believed, the first

* Marshall, 1, 157.

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store in the State for the sale of foreign merchandise. In Philadelphia were formed several companies of land speculators, who converted their hordes of paper money into Virginia land warrants; and added a new impulse to a tide already at the flood. A commercial association had likewise been formed at the above place; the active partner of which, was James Wilkinson, afterwards so prominent in western affairs; who in February, 1784, arrived in Lexington. So impressive and influential were the movements of this gentleman, though only in private life, that they constitute quite an era in the history of Kentucky.

The conclusion of the definite treaty of peace which had been signed at Paris, in September, 1783, (but the ratification of the parties not exchanged until May, 1784,) it was fondly hoped would have immediately led to the surrender of the British posts on the lakes, and in consequence, to a control over the conduct of the Indians; this, whether, they had been in French, British, or American hands, has always followed that event. Mutual complaints of infractions of the treaty, and unfortunately as well grounded against Virginia, for suspending the collection of British debts in her courts; as against Great Britain, for retaining forts within the acknowledged limits of the United States; protracted the execution of the treaty. In the mean time the Indians perceiving the frontier fortifications, (which must strike them as the most palpable marks of power,) still in the hands of their old friends; necessarily relied upon the continuance of their protection against the Americans. This was too readily afforded by the agents and subjects of the British government; particularly those who were interested in retaining a monopoly of the fur trade. Truth likewise compels the acknowledgment, that many individuals in Kentucky displayed a revengeful hostility to the Indians, not at all short of their own ferocity to the whites. In one instance a friendly Indian is said to have been seduced into the woods by a white man and secretly murdered; yet the punishment of the law could not be inflicted upon the offender, owing to the popular resentment against the old enemies of the whites, and their unjustifiable sympathy with a shedder of innocent human blood. The effect of this winking of the laws of

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the white man over his offences against his red brother, is said to have been instantaneous, "the amicable parties of Indians ceased, confidence was lost, friendly intercourse abated," and retaliation became the only appeal. It soon lighted up a renewal of hostilities on the frontiers, for which it must never be forgotten in a just estimate of these wars, the Indians were predisposed by nearly two centuries' encroachments of white men on every thing dear to the very nature of the aborigines.

Previous to again entering on another portion of our sanguinary annals, it will be interesting to notice the extension of our pacific domain, and the improvement of our social comforts. Hitherto that part of Kentucky lying north of Licking river had remained unsettled, as it was deemed dangerous from its contiguity to the northern Indians. Indeed surveys had been suspended in this section of the district, by order of the principal surveyor; they were afterward resumed, and again suspended, by the appearance of Indian *sign*. Simon Kenton, however, after an absence of nine years, repossessed himself of the improvement formerly mentioned, made in 1775, by this most wayward and enterprising man, near the present town of Washington, at the head of Lawrence's creek.

Indian invasion was now threatened in a new direction; hitherto the hostile incursions had come from the north, but information was given Colonel Logan, that some of the Cherokee tribes meditated an invasion of the southern frontiers; while hostile intentions were demonstrated by the northern tribes. These alarming circumstances in the autumn of 1784, induced the Colonel to procure a meeting of the citizens at Danville, to adopt measures for the public security. Upon taking the situation of the district into consideration, this assembly discovered that no legal authority existed here to call out the militia for offensive purposes; there was no magazine of arms or ammunition beyond private supplies; nor any provisions or public funds to purchase them. The property of individuals was no longer in a time of peace, subject to be impressed as during the late state of war; moreover the government of the State, that had already complained of expense, might refuse to pay for the

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expedition, "or even to compensate for real losses." Under these embarrassments, the military expedition was abandoned, and fortunately; for whatever might have been the correctness of the intelligence communicated to Colonel Logan, no invasion by southern Indians was made this year. The meeting, however, produced an effect much more important to the welfare of Kentucky than any temporary military party could have done; for in consequence of the discovery, which it had made of the want of suitable legal and political organization for the necessary purposes of so insulated a community, it was thought advisable to invite a convention of the representatives of the whole district, in the next ensuing month. This assembly might, it was hoped, make an imposing and effectual appeal to the legislature of the State, upon these subjects of deep concern to Kentucky. To effect this first of our *formal* conventions, (though the second in fact) the meeting addressed a written circular to each militia company, recommending it to elect one representative to meet at Danville, our temporary capital, on the 27th of December, 1784. The invitation was complied with, and the representatives assembled in conformity with it: they organized themselves into a convention by electing Samuel McDowell, President, and Thomas Todd, clerk; and then proceeded to business. In a session "conducted with much decorum," which is indeed a national characteristic of our public assemblies, it was thought that many of the grievences of the district might be remedied by suitable acts of the Virginia legislature; while others of the greatest magnitude, involving the military defence, originated in the great distance of the country from the seat of the State government. These latter mischiefs could only be removed by a separation of the district from the parent Commonwealth; and its erection into an equal and independent member of the American confederacy. This latter opinion finally prevailed by a decided majority, and it was reduced to a resolution, *"in favor of applying for an act to render Kentucky independent of Virginia." Still with the deference due to the feelings and interests of a free people,

* Marshall 1, 194.

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which is the very essence of republican and popular government; and as the representatives to this convention were not expressly elected with a view to so fundamental a political change as was now contemplated, the convention forbore to make the application to Virginia. It, however, earnestly recommended the measure to the district, and likewise at the ensuing April elections for members of the State legislature, to elect representatives to meet in convention in the ensuing May. This second convention was expressly charged with an interesting question, and one hitherto untried even in the school of American politics, (rich as it is in experiments;) it was that of considering and determining the expediency of a separation of Kentucky from Virginia, and applying to its legislature for their consent to the measure. Our confederacy had not yet exhibited this process of moral swarming in mutual harmony and peace; which has since been so often repeated, as to have familiarized our minds, to the grandeur of the political operation; one unknown to the annals of the eastern continent. Strange to relate, at this time, abundantly as the press has since been diffused, wide as Volney remarks, as American settlements; none yet existed in Kentucky. The circular address of the convention of '84, to the people of the district was, therefore a *written* one: the members to be chosen are said* to have been twenty-five, which were divided among the three counties according to their *supposed* population. This autumn is remarkable for a great accession to the population of the district, and the superiority of its character; the effect was instantaneous in stretching out the frontiers, and enlarging a safe interior. The Indians, too, are said to have very sensibly relaxed, even in their predatory warfare. With January, 1785, the county of Nelson was created out of all that part of Jefferson county, south of Salt river. On the ensuing March, the death of Elliott, who had recently settled at the mouth of Kentucky river, the burning of his house and dispersion of his family, struck the country with no little alarm: it was interpreted by its indications of future consequences, rather than the immediate effects, desolating as

* Marshall 1, 195.

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they were to a family, as innocent as their countrymen at large. April brought the double elections for members of the legislature of Virginia, and for a second convention at Danville. By the 23d of May, the members again assembled at their former place of meeting, and organized themselves. The decorum of the public proceedings of this assembly, as well as that of the conduct of the attending citizens, are particularly remarked by our first and venerable historian. The result of their deliberations will be found in the following recommendations.

1st. "Resolved, unanimously, as the opinion of this convention, that a petition be presented to the assembly, praying that this district may be established into a State separate from Virginia;" and, 2dly, That *another* convention be elected to meet at Danville in the second Monday of August, "to take further under their consideration the state of the district." By a third resolution, the convention recommended "that the election of deputies for the proposed convention, ought to be on the principles of equal representation;" by *numbers*, it is presumed, as the representation of Virginia was founded on the territorial principle, in disregard of population. This early and unanimous indication of the democratic or popular spirit, in one of the earliest public assemblies of Kentucky, is a faithful key to her political complexion. The fervor of our State character with difficulty suspects, that this spirit may be carried to extremes; similar to those which hurried the republics of history to an early tomb, in the embraces of military usurpation. Not that the author controverts this particular application of the principle of equality; for he believes, that no excellence of organization, no nice adjustment of parts, with all the skill of political architecture, can protect any people against their own ignorance and vice. The most complex, as well as the simplest fabrics of political science, must receive their character from that of their tenants and occupants, and not from the inanimate materials of which they are composed. It is not, therefore, of much import on principle, that a few more, or a few less, should be admitted to the right of suffrage under a political constitution; since there must be an overruling mass of virtue and in-

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telligence to constitute the conservative power of society. While an exclusion of large classes, independent of universal disqualifications, such as minority, want of residence, &c., keeps up a constant excitement of discontent and ill-blood in the community, much more mischievous, than the admission of all to a political voice in the management of those affairs, which they may be called upon to defend with their blood and their lives.

It appears at this time rather singular, that this convention, in a spirit of dependence and passiveness, apparently uncalled for by their delegated authority, should decline acting efficiently and promptly under the powers which were so expressly conferred upon them by their choice, under the express call of the previous assembly in December, '84; but should again weary the patience, and disappoint the reasonable expectations of the community, by referring the question of separation to another convention. The members of this third convention were apportioned among the counties by comparison of muster rolls, and the recollection of members, (for as yet no census had been taken) in the following ratio: the county of Jefferson to have six; that of Nelson, six; that of Lincoln, ten; and of Fayette, eight representatives. They adopted a petition to Virginia, and likewise an address to the people of the district, which will be found in the appendix. The latter presents an interesting picture of the domestic state of Kentucky. The recommendation of another convention was again regarded upon the part of the people, and on the 8th of August, 1786, the assembly met at Danville; they again chose Samuel McDowell their President. This body after having deliberated some time, came to the following resolution unanimously, which was reported by George Muter, as chairman; "that it is the indispensable duty of the convention to make application to the General Assembly at the ensuing session, for an act to separate this district from the present government forever, on terms honorable to both, and injurious to neither." This resolution, and its eloquent preamble, were followed by an address to the legislature of Virginia, and the people of the district, in a style of

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dignity and ornament, yet unprecedented in the public proceedings of Kentucky. They were certainly the production of Gen. Wilkinson, at the time in question, a member of the convention.

This gentleman, whose emigration to the district has been noticed, now began to act a part of leading importance in the history of Kentucky; indicative of the distinguished figure, which his impressive powers as a fine writer, his military service, and distinguished abilities, enabled him to exhibit in the affairs of the nation. It will be perceived, that there is in these papers, an elevation of political ideas, richly dressed in appropriate composition; nor should any political imputation rest upon them, as has been insinuated,* because this assembly petitioned for "sovereignty and independence." Sovereignty was much more consistently the attribute of the members of the old confederation, than those of the present constitutional Union. That there is exaggeration of practical grievances may be admitted; for what orator can deign to restrain his imagination within a vulgar and sterile state of facts? What painter will always touch after nature, and put on no tints finer than those of *her* pencil? Besides, the General was writing for an ardent and high tempered people, who would readily disdain a tame and frigid memorial, as evincing an abandonment of their rights, or at least, an insensibility to their value. George Muter, who was Chief Justice, and Harry Innes, then the Attorney General, on the death of Walker Daniel, were ordered to present the petition to the legislature of Virginia, and to support it before that body. The county of Bourbon was this year laid off from Fayette; and the counties of Mercer and Madison from Lincoln; enlarging the counties of the district to seven. The legislature of Virginia received the petition of Kentucky with the liberality which has generally marked that magnanimous State. It passed an act providing for the election on the ensuing August, by the *free white male* inhabitants of the district, of five representatives from each of the counties; who should determine whether it be expedient for, and the will of the good people of the district, that it should be erected into an *inde-*

Marshall 1, 215.

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pendent State on certain conditions. It was, moreover, enacted, that if the convention should approve of separation, a day should be appointed posterior to the 1st of September, 1787, when the authority of Virginia should cease; provided that the Congress should prior to the 1st of June, 1787, assent to said separation, relieve Virginia from her federal obligations arising therefrom, and admit the said State into the federal Union. Military expeditions against the Indians, whose hostilities had again broken out, (an account of which will appear in their proper place,) prevented the attendance of a quorum of this fourth convention; in consequence of which, a portion of the body, calling itself a committee, forwarded to Mr. John Marshall, (the present venerable and pre-eminent Chief Justice of the United States) a memorial to be laid before the legislature, reciting these embarrassments, and praying an alteration of terms in the separating act. This memorial was granted, according to its prayer; an act in conformity was passed, and arrived at Danville in January, 1787, after a formal vote had been taken in favor of the separation; and thus fell the fourth convention of Kentucky on the subject of separation, to give birth to a fifth. Mr. Marshall, to whom the memorial had been transmitted, addressed a letter to the convention, explanatory of the course taken by the parent Commonwealth. The most important of these reasons was, that the delay in executing the act of Virginia, had rendered it impracticable to obtain the assent of Congress, before June, 1787. The new act of Virginia continued its assent to the separation; but required a convention to be re-elected by the ensuing August, and to signify its assent to the political divorce, by a majority of two-thirds; its operation was, moreover, postponed until the 1st of January, 1789. Thus then had the people of the district been tantalized from December, '84, to January, '89, tossed from one political assembly to another, and finally their most interesting feelings and passions kept in an agitation, easy to be conceived. It is, indeed, a high and honorable proof of political order and subordination in Kentucky, that so impetuous a people should, under circumstances of such irritation and disap-

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pointment, have preserved the peace of the State; and this at an extremity of the territory of Virginia, almost inviting to forcible separation, in defiance of such repeated mockery of their expectations.

Two additional sources of agitation now began to shed their influence on the public mind; 1st. The Indian hostilities; and 2dly. Apprehensions respecting the navigation of the Mississippi.

In regard to the first, depredations continued to be made by the Indians on the frontiers. From '83 to '90, a little later than the time of this portion of the history, "fifteen hundred persons, including women and children, had been killed or taken prisoners by the enemy, south of the Ohio; besides taking two thousand horses, and property to the amount of fifty thousand dollars;"* to punish these, or in the more lordly style of other parties, to take "satisfaction for the past, and indemnity for the future," an expedition was resolved upon under their old and favorite leader, General Clark, from Louisville. About a thousand men assembled at the place of rendezvous, and their provisions in nine keel-boats, were despatched down the Ohio, to ascend the Wabash as high as Vincennes, for which point the expedition marched. On assembling in the neighborhood of this place in October, 1786, the †party lay for nine days waiting the arrival of these transports, which had been delayed by the low waters of the Wabash, until half of the provisions was spoiled; and the portion which accompanied the expedition exhausted, except a few bullocks. This delay proved most fatal to the expedition; with irregular troops, inactivity is equivalent to defeat. A spirit of discontent soon manifested itself in camp, even before the arrival of the boats, and before the state of the supplies was known; afterwards it showed itself more openly. The absence of Colonel Logan may have contributed to this, with his immediate followers, and who might otherwise have been preserved in subordination. The army (if not too magnificent a term,) was placed upon short allowance, and marched towards the Indian towns, which were the object of the attack.

* Judge Innes in Political Transactions. † Marshall 1, 248.

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A flag of truce was dispatched to the Indians (it is said, rather doubtingly by Mr. Marshall) with the offer of peace or war. Such an offer is so inconsistent with the usages of Indian warfare, in which surprise is so essential a feature, that it throws some discredit on the relation. Unless General Clark might, in a state of peace, and in the difficulty of discriminating one tribe from another, have felt himself bound to make this departure from his former most successful practice. It is also true, that General Wayne in time of war sent, at great hazard, repeated flags to the Indians, in order to bring them to terms. Whatever may have been the fact, this measure on the part of the General, in addition to the want of provisions, is represented to have converted previous restlessness, into positive disaffection, "fomented by some officers of rank, who were displeased with the General." This state of things eventuated in three hundred men deserting in a body, when but two days march from the Indian villages. In vain the gallant veteran, who had never yet led his countrymen to defeat, addressed the mutineers "in the most soothing and earnest terms of entreaty to stay;" in vain the noble soldier "shed tears" over the disgraceful conduct of his men, which he must have felt blighting to his own fame. The evil spirit of discontent had got possession of the troops, and they obstinately returned home, without having seen an enemy, or struck a blow. Still there was a residue left greater, enormously greater than many a gallant band, that had penetrated in earlier times into the very heart of the Indian country; spreading dismay and destruction before it. But something was wanting on this expedition, more essential than numbers; without which the largest numbers, only increase the spoil of an enemy; it was a manly and patriotic subordination to orders, and an honorable confidence of the men in their officers, and of officers in their commander. Never had General Clark led so unfortunate a party; hitherto victory seemed to have hung with delight upon his banner; and for him to appear was to conquer all opposing difficulties. At the same time, mournful as the truth is, and reluctantly as the record is wrung from the author, General Clark was no longer

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the same man, as the conqueror of Kaskaskia, and the captor of Vincennes. The mind of General Clark was wounded by the neglect of the government of Virginia to settle his accounts for his great expeditions, which had stretched the republic to the Mississippi. Private suits had been brought against him for public supplies, which ultimately swept away his private fortune; and with this injustice, the spirits of the hero fell, and the General never recovered those energies which had stamped him in the noblest mould of a hero. At the same time it is feared, a too ready and too extensive conviviality contributed its mischievous effects. Clark, however, like himself, is said to have *been opposed to waiting at Vincennes, the radical error in the expedition; but he advised an immediate march with the provisions and the ammunition which they had to the Wea towns; and that the residue behind, should be brought up by a detachment to be left for that purpose. Such advice bespeaks the General's former energetic character, in previous expeditions; when a little meal mixed with sugar, composed all the rations of the men; but to have thought correctly, was to have acted accordingly, in the former course of General Clark. Why was it different now? Where was the overruling spirit, that had carried the British cannon at the head of his riflemen? The mournful answer is left to be made by every reader. Several officers are accused of having fomented the insubordination which terminated the expedition so dishonorably.

The author may not forbear while incidentally on the interesting subject of General Clark, to quote the tribute to his high merits, by Buckongahelas, the head war-chief of the Delawares, at Fort McIntosh, in 1785; where Clark attended as a commissioner to treat with the Indians, assisted by Arthur Lee and Richard Butler. When the peace-chiefs had addressed the commissioners, †Buckongahelas, not deigning to notice the colleagues of Clark, took the latter by the hand, and said, "I thank the Great Spirit for having this day brought together two such great warriors, as Buckongahelas and General Clark."

* Captain B. Gaine's letter to the author. † Memoirs of Harrison, 82, note 2.

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A more fortunate issue attended the expedition of Colonel Logan, who had been detached by General Clark from his camp at Silver creek opposite to Louisville, to return to Kentucky, and raise as expeditiously as possible another party to go against the Shawanees, whose attention it was supposed, would be engaged by the Wabash expedition. Logan repaired home, and soon returned with *"a competent number of mounted riflemen." On this rapid expedition, a town of the Shawanees was burned, a few warriors killed, and a number of women and children brought away prisoners. This, as usual, consolated the public mind in some degree, for the misfortunes of General Clark.†

CHAPTER X.

Earliest attempts at Navigating the Mississippi, by Americans—Colonels R. Taylor and Linn—Negotiations between Jay and Gardoqui—Discontents at Pittsburg, and in Kentucky—Trade of Wilkinson with New Orleans—Suspicions of his fidelity—First Newspaper in Kentucky—Constitution of the United States.

The attention must now be directed to the navigation of the Mississippi, which at this time began to excite the public interest from Pittsburg to Louisville; these were the extreme points of any dense population, with wide and fearful gaps between. Previous to narrating the agitation and intrigue, which rapidly and widely connected themselves with this tender subject of western interest, some notice will be taken of the earliest experiments in navigating this powerful and turbulent river.

* Marshall 1, 251.

† This expedition was prepared in conformity to resolutions of the inhabitants of the district, assembled at Danville sometime in 1786; the month is not mentioned in the proceedings; they are signed by William Kennedy as chairman. These resolutions, together with an order of the executive of Virginia, were acted on by the military officers of the district, who met at Harrodsburg, on the 2d of August, 1786. These gentlemen, among other resolutions, adopted one appointing "General George Rogers Clark to act as general officer, and have the command and direction of the army at this time, ordered in offensive operations against our enemy, Indians." The doubts which were entertained about the legality of impressments for provisions, &c., were submitted by the officers to Judges Muter and Wallace, and the Attorney General, Innes. These officers certified it as their opinion, "that the executive have delegated to the field officers of this district all their power" in regard to impressments, "and that they have a right to impress, if necessary, all supplies for the use of the militia, that may be called into service." This opinion is directed to Colonel Benjamin Logan, as President of the Board of officers.

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The earliest Anglo-American enterprises in this direction, and indeed of wonderful boldness, which the author has been able to collect, are, 1st. That of Colonel Richard Taylor, formerly of the county of Jefferson, and often honored with distinguished public trusts. This gentleman, in company with his brother Hancock Taylor, both of Virginia, was at Pittsburg in 1769, and thence descended the Ohio and Mississippi rivers, to the mouth of Yazoo river. From this point the brothers passed through the country of the southern Indians to Georgia, and thence to Virginia. This information has been obtained from a deposition of Colonel Taylor in a suit at law. The second was communicated to the author by Captain William B. Wallace, a most worthy veteran of the Revolution, lately descended to the grave, covered with years and with honors: this gentleman related that John Whitaker Willis, John Ashby, and William Ballard, were engaged in the battle of 1774, at Point Pleasant, and after the engagement visited Kentucky. That being afraid to return by the usual route, they hollowed out a pirogue (formed out of the body of a large tree) and passed down the rivers to New Orleans. From this port the party made its way to Pensacola; here they were assisted by the British governor, and were conveyed round to Charleston, in South Carolina. Ashby was of Fauquier county, in Virginia; Willis, of Stafford; both neighbors of Captain Wallace, in Virginia. The next effort at this perilous navigation was made *by Colonels Gibson and Linn, the latter the grand-father of the present Dr. Linn, of St. Louis, now in the Senate of the United States from Missouri.

These gentlemen descended the Mississippi in 1776, from Pittsburg to New Orleans, by the orders of Virginia, it is presumed, in order to obtain military stores for the troops stationed at the former place. So extraordinary an adventure may well require particular confirmation to the mind of the reader; it can be furnished in the most remarkable manner. *John Smith, now or lately of Woodford county, in this State, was in 1776, engaged in reconnoitering this country in company with

* Louisville Directory, 103, by the author.

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James Harrod, so eminently distinguished in the history of Kentucky difficulties and dangers. On their return the companions separated; Harrod to go to North Carolina, and Smith to Peter's creek on the Monongahela. While traveling on the bank of the Ohio, the latter discovered Gibson and party descending it, who hailed Smith, and prevailed on him to embark in this, one of the boldest of the western adventures. The party succeeded in its object, and obtained a supply of one hundred and fifty-six kegs of gunpowder from New Orleans; which Smith helped to carry round the Falls to the mouth of Bear Grass creek in the spring of 1777. Each man carried three kegs along the portage, one at a time. The powder was delivered at Wheeling first, and thence conveyed to Pittsburg. Independently of this particularity of circumstance, solemnly asserted on oath in a deposition at law, by a respectable party in the transaction, it was frequently mentioned by Colonel Linn in his life time, and is still known as his information, in the family left by this gallant and energetic man.

Among the first buddings of intercourse rather than of trade with New Orleans from the western country, must be reckoned the voyages of Messrs. Tardiveau and John A. Honore, the latter an ancient and respectable French merchant of this city. These gentlemen left Redstone, now the town of Browsville, on the Monongahela, in 1782 and '3, when there were but two houses in the place. The navigation of the western rivers was then much infested by banditti of white men, as well as of Indians. The French gentlemen mentioned, were both stopped by the Indians, and the former robbed by them; indeed the river was as much debarred to trade, by the Spanish government, as by the Indians. American property was seized and confiscated by the Spaniards on its only way to a foreign market.* A negotiation on this subject, as well as other matters of national difference, had commenced in 1785, between Mr. Jay and Don Diego Gardoqui, the representative of Spain in the United States. †"Congress had expressly ordered the Secretary for Foreign Affairs to stipulate both for the territory of the United

* Wilkinson, vol. 2, appendix, 6 & 13. † Jay's Life 1, 235, 236.

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States according to the treaty with Great Britain, and for the navigation of the Mississippi, from its source to the ocean. Don Gardoqui, on the other hand, declared, that the Spanish king would never permit any nation to use that river, both banks of which belonged to him." Under these circumstances, Mr. Jay was called before Congress to communicate his views on the negotiation; "he informed Congress, that Spain was ready to grant the United States extensive and valuable commercial privileges; and that it was in her power, by her influence with the Barbary States, and by her connexion with France and Portugal, greatly to injure the commerce of America, and to benefit that of England. But that at present, the questions respecting the Mississippi, and territorial limits, prevented any commercial arrangements whatever; that his own opinion of the justice and importance of the claims advanced by the United States, had undergone *no change;* but that, under present circumstances, he thought it would be expedient to conclude a treaty with Spain, limited to *twenty or thirty* years, and for the United States to stipulate, that during the term of the treaty, they would *forbear* to navigate the Mississippi below their southern boundary," as it has been seen, was recommended by Virginia during the Revolutionary war. This recommendation by Mr. Jay, was founded on the opinion, "that however important the navigation might ultimately be, it would not probably be very essential during the proposed term; and that, therefore, it might be good policy to consent not to use, for a certain period, what they did not want, in consideration of valuable commercial privileges." The views of Mr. Jay were sanctioned by seven States, but opposed by the other six; still the Spanish minister would not consent to any treaty whatever, implying a right in the United States to the navigation in question; the negotiation proved fruitless, and was finally terminated by Gardoqui's return to Europe. This is an authentic account of the negotiation under the old confederation in regard to the navigation of the Mississippi; which, however, we might claim, the United States were in no position to extort by force of arms, under so feeble a government as then existed. It was in weak-

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ness and insignificance closely allied to what the German Empire used to be in Europe; it was, in the language of a favorite Revolutionary figure, a political barrel of thirteen staves without a hoop. Let us for a moment reflect, what would have been the effect of this session for twenty years, as actually authorized, or thirty years as the utmost limit proposed by the Secretary. Twenty years from 1786, would have brought the commercial limitation to 1806; four years after the suppression of the right of deposite at New Orleans. This itself blew the western country into a flame, that would have consumed all the ties of the confederacy, had its councils have slumbered over interests, so precious to this section of the United States. What then, would have been the feelings of the country; what would have been its prosperity, had its trade with New Orleans been suspended for thirty years? Sagacious as the views of Mr. Jay generally were, they have been outstripped in this instance by the growth of the western country, beyond the anticipations of our wisest statesmen. Our progress has been a race scarcely checked by an accident on the course. Rumors of this negotiation, *"when no post-office existed in Kentucky, and when no safe or certain mode of conveyance for letters or newspapers was established between this district and the rest of the Union," must necessarily have subjected the conduct of the United States' government, then held in New York, to much misconception, and to no little misrepresentation by intriguing or mistaken candidates for political promotion. These exaggerated representations on the subject of a navigation, so deeply and vitally interesting to the United States, had produced an association at Pittsburg, which transmitted to Kentucky a most erroneous account of the Spanish negotiation, well calculated to kindle the passions of her people. This statement purported "that John Jay had proposed to the *Spanish minister*, to surrender the navigation in question for twenty or thirty years." The truth was, that the proposition was submitted to Congress, and was supported by seven north-eastern States, against five southern ones; but the offer if made, which does not certainly appear,

* Marshall, 1, 255.

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had been rejected by Don Gardoqui. An instruction to a minister was deemed to come strictly under the clause in the articles of confederation, requiring the assent of nine States to form treaties with foreign nations; consequently the proposition fell. Whether the offer was made under the repeal of the instructions of the 25th of August, 1785, previously carried by the vote of the same States, is not clearly exhibited; though implied by the language used in Mr. Jay's life, as well as by that of Mr. Pitkin.

The communication from Pittsburg naturally roused the sensibilities of Kentucky, on so excitable a subject; one involving all her prospects of commercial prosperity. A circular letter was addressed by *Messrs. Muter, Innes, Brown, and Sebastian, in March, 1787, inviting a public meeting of the citizens of the district, at Danville, in the ensuing May. The language of this memorial has been objected to, because it charged "*Congress* with proposing to cede to the Spanish court the navigation of the Mississippi for twenty-five or thirty years:" while that proposition had failed by an insufficient majority, under the ninth article, sixth section of the confederation. Yet a *previous* vote had, with some dispute, rescinded the former instruction to Mr. Jay, to conclude no treaty with the Spanish minister, without obtaining "the free navigation of the Mississippi, from its source to the ocean:" and, moreover, †Mr. Jay was at first instructed neither to make, nor receive any propositions, nor to enter into any compact with the Spanish minister without previously communicating the same to Congress." The circumstance, therefore, of ‡*continuing* the negotiation after the removal of the former restriction, certainly sanctions the idea of the Danville circular, that the suspension of the navigation in question, had been offered by Congress, through the Secretary, though it was disdainfully rejected by Don Gardoqui, as has been mentioned. It must have been want of correct information, that induced either of the meetings at Pittsburg or Danville, to procure an expression of public opinion on a matter, which had already failed at its inception. Nor was the mistake peculiar

*Marshall 1, 289. †Pitkin 1, 401. Idem, 408. ‡Jay's Life 2, 338.

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to these meetings; since a letter addressed from the Falls of Ohio* in December, 1786, to the Governor and legislature of Georgia, represented a "*commercial treaty*" with Spain, "to be cruel, oppressive, and unjust." "The *prohibition* of the navigation of the Mississippi has astonished the whole western country. To *sell* us and make us *vassals* to the merciless Spaniards, is a grievance not to be borne." A copy of this letter (and others of a similar character) were laid before Congress; which body on the 16th of September, 1788, authorized its members to contradict the reports "that it was disposed to treat with Spain for the surrender of their claim to the navigation of the river Mississippi." This venerable body likewise resolved,† "that the free navigation of the river Mississippi, is a clear and essential right of the United States, and that the same ought to be considered and supported as such." Before these decided resolutions were adopted by Congress, the Legislature of Virginia, had also taken up the subject in November, 1786; and had come to unanimous resolutions, most decisively favorable to the rights and interests of her western citizens, which she ordered to be laid before Congress. These measures seem to have had their just effect with the Danville assemblage; and it adjourned without any definite expression of sentiment on the subject. A circumstance not a little remarkable, considering the subject, and the temper of those who composed the meeting: Kentuckians have not often assembled together, and dispersed so quietly: a fire of resolutions might at least have been expected.

The rapid increase of the population, and consequent produce for market, began to direct the public mind, more impatiently and indignantly to the Spanish obstructions in their only outlet to market. ‡In June, 1787, General Wilkinson descended to New Orleans with a small cargo of tobacco and other articles; determined to try his enterprise and address at the seat of the Spanish government in Louisiana. While at New Orleans, General Wilkinson says, that he "made an arrangement with Governor Miro, for the introduction of seve-

*Pitkin 2, 203. †Idem, 210. ‡Wilkinson's Memoirs, vol. 2, 112, 116.

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ral thousand families in that district on the Mississippi, which is now called West Florida; or one to be laid out on the Arkansas and White rivers;" he likewise obtained the privilege of furnishing a considerable annual supply of tobacco for the Mexican market, which would have secured immense fortunes for him and his friends. This statement of General Wilkinson* is corroborated by the testimony of the most unexceptionable witnesses, both Spanish and American: it is proved by official permits of Governor Miro. It is, moreover, apparently freed from corrupt and sinister views, by the testimony of Mr. Pollock, for twenty years, the confidant of the Spanish Governors of Louisiana; and by Gilbert Leonard, the Treasurer of the province. This proof is again confirmed by accounts current of the agents of General Wilkinson at New Orleans with their testimony; Colonel Ballinger in 1789 delivered two mules loaded with money from New Orleans, to Wilkinson in Frankfort, "in the presence of many persons, whom he found there waiting his arrival," "who were tobacco planters of Lincoln county, in Kentucky, and were there to receive their money for tobacco purchased of them by" Wilkinson. Indeed, the frequent remittances of money to General Wilkinson, by various agents, seem fairly and honorably explained by this tobacco speculation; which Wilkinson, then a private citizen, had the most indubitable right to engage in; and which, in fact, opened a valuable market for the produce of this infant State. It is due to the memory of General Wilkinson, to his distinguished services and persecutions, to declare that this part of the subject was approached by the author with strong prepossessions against his purity. But on sifting the mass of testimony procured by one military tribunal, and four committees of Congress, added to that presented to a second court, and finding the General acquitted by both courts, and their sentences approved (reluctantly approved in the last instance) by two Presidents of the United States, the author has been forced into the conclusion, that this military officer has been wronged in the suspicions and denunciations, so long and bitterly indulged against his

*Wilkinson's Memoirs, vol. 2, 196, 198, Appendix 1.

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honesty. In the whole of these transactions, no foundation has been perceived for the surmise of Mr. Marshall; "that this tobacco contract was a mere cover for a pension," (though there is a strong probability that it was a corrupt partnership with Governor Miro;) and "the clandestine and dishonorable part was carefully concealed from all but coadjutors." *Indeed, for the purposes of Kentucky history, it may be sufficient for the refutation of this construction, to appeal to the repeated decisions of the competent tribunals, after most unexampled and unrestrained investigation.

General Wilkinson did certainly show no reserve in disclosing to his own government, these connexions with the Spanish officers at New Orleans; nor any backwardness in developing the circumstances, or in soliciting inquiry of General Washington, or the elder Adams. He may have felt and shown the resentment natural to a man of high pride and professional sensibility, at the suspicions of General Wayne; which, as he told Colonel Morrison, a more frank and confiding demeanor would have instantly led him to explain, if not remove, by a full detail of the causes of this ill opinion. But one conclusive consideration in the mind of the author, which confirms the honor and fidelity of Wilkinson, is, that in his long and various public services, no one solitary instance can be justly alleged, in which he disregarded or violated the strictest and most zealous discharge of his duty.

In the ensuing February, the General returned from New Orleans.† It was immediately rumored, that "he had formed a contract with the Spanish Governor, which enabled him to ship tobacco and deposite it in the King's stores at ten dollars per hundred;" that he had become a "Spanish subject," and had taken "the necessary oath of allegiance." What truth there may have been in these latter surmises, is not in the power, nor within the province of history to declare: its materials ought to be higher than conjectures and suspicions. Future memoirs of Spanish statesmen, or access to the archives of their secret and jealous country, may one day develope the mystery of the first steps of Spanish intrigue in Kentucky.

*Marshall 1, 183. †Idem 271.

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Wilkinson did, however, proceed to buy tobacco for the Spanish market under the permits of Governor Miro; and spoke *openly* of his exclusive privilege at New Orleans, to deposite his tobacco in the King's store; he also expressed himself in high terms of the right of navigating the Mississippi, and of a commercial connexion between the two countries. There is a mixture of innocent and suspicious matter in these allegations which requires to be discriminated. The right to the navigation was indispensable: the emigrants to Kentucky had no other homes to go to; they had brought their all to Kentucky; they must sink or swim with her. The independence of Kentucky might mean a separation from Virginia, but most probably was intended to impress the necessity of a disunion, because in no other way, could Kentucky have had any influence over the counsels of Spain. Yet it would have been a melancholy infatuation, which could for a moment have deluded Kentuckians to believe, that as dependents in the most exalted sense, or nominal equals and allies, they could have enjoyed the security for their interests, much less their noble liberty, which a member of the great confederacy of North American republics could command. But a thousand conflicting attachments, and inveterate prejudices of language, customs, and government, forbid the idea of a political connexion with Spain ever having been seriously meditated by the mass of the people.

To present the first connexion of General Wilkinson with the Spanish government unbroken, the year has been anticipated; which has led the narrative past the establishment of the first printing press in Kentucky, an era almost as worthy of commemoration in the backwoods of America, as its European invention. Nor was this establishment altogether destitute of originality in the Kentucky printer. Mr. John Bradford, an ingenious and enterprising citizen of Lexington, not brought up to the business of a printer, undertook this important step in the political and intellectual improvement of Kentucky. There was not then a printing press on the western waters, nor one within five hundred miles of Lexington. Several of the type were cut out of dog-wood, and with this imper-

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feet apparatus, on the 18th of August, 1787, he and his brother Fielding Bradford, published the Kentucky Gazette. It was at first a weekly paper, printed on a demi sheet, which size was altered on the 1st of September following, into a medium sheet, and then it assumed one of greater dimensions. This name is still retained among the journals of the State, which, in 1833, have amounted to twenty-nine or thirty.

On the 17th of September, 1787, the fifth convention assembled at Danville, and unanimously decided for the separation of the district, upon the terms and conditions prescribed by the law of Virginia. An address was made to Congress for the admission of the new State into "the federal union, by the name of Kentucky;" and the last day of December, 1788, was fixed for the termination of the authority of Virginia, and the commencement of the new republic. This convention requested "the delegates from the district in the legislature of Virginia, to use their endeavors to have an inhabitant of the district appointed a delegate to Congress for the ensuing year." Under this recommendation, Mr. John Brown was chosen the first and only member of the old Congress, under the confederation, from Kentucky. It, moreover, directed a convention to be elected, "with full power and authority to frame and establish a fundamental constitution of government for the proposed State." Notwithstanding the unsettled and exposed condition of the country, involved in Indian depredations, and deprived of a free market for the produce of its labor; the fertility and cheapness of the lands, and no doubt the adventurous theatre, which was presented to the young and the aspiring; all combined to impel the stream of emigration to Kentucky. So great was the accession of population, that it had doubled within the last three years.* About this time the Indians resorted to a species of miniature *naval* warfare against the emigrants to Kentucky. They manned a flat bottomed boat, such as is still used by families for descending the western waters,† and "intercepted several of these family conveyances on the river; consigning

*Marshall 1, 285.

Broad Horns, in the dialect of the western rivers, and of "Westward-Ho!"

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those on board to slaughter, and carried off their goods." This new method of infesting one of the great avenues to the country, after having effected much mischief, and spread wide alarm, was in one instance, broken up by a party from this city, which, however, found the Indian boat deserted, and could only destroy her.

In this year Kentucky as a part of the parent Commonwealth, was called upon to express her sentiments on the grand question of adopting the present constitution of the general government; which has elevated our country to so lofty and proud an eminence, among the nations of the earth. This is not the place to discuss or even narrate minutely, this mighty episode in our history; the crisis is well understood to have been pregnant with every thing interesting to the dearest and most precious interests of America; already violation of contracts, spurious paper money, arbitrary tender laws, State conflicting with State, in levying imposts on foreign goods, and violated treaties with foreign powers, were fast precipitating our countrymen into disunion, civil war, and foreign subjugation. The constitution of 1787, snatched our country from this tremendous gulf of ruin and dishonor. Justice, however, to the views of those opposed to the adoption, requires it to be stated, that with many, the question was not so much, whether the constitution proposed, should be absolutely rejected; or whether it should be rejected, until amendments should be adopted. The spirit of liberty naturally flowed high, and suspicion of political power was proportionably sharp, so recently after the demolition of the British goverment; or more properly the change of executive relations from a foreign monarch to a domestic head, which was in fact, the principal departure from the ancient institutions of the colonies. To this jealousy, invaluable as a preservative of public liberty, within any reasonable bounds, must no doubt be added, an influential source of opposition—the diminution of local and personal importance in the States. *"Many of the leaders of the opposition to the federal constitution, were such as wished to be *little Kings at home*." Is

*Jay's Life 1, 258.

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not the remark still most powerfully applicable to our State controversies with the general government? Will it, indeed, ever lose its force, in so complicated a system of government, as our own? It may be, indeed, the centrifugal force of the machine, as necessary in its sphere, as the centripetal tendency of an efficient national authority, is indispensable to combine the energies of the whole confederacy, for the safety and the welfare of all. The vote of Kentucky as represented in the convention of Virginia was, in conformity to the strong democratic spirit of the people, more alive to the dangers and abuses of political authority, than to the necessity of an efficient government, opposed to the adoption of the new government. The division was in the ratio of *eleven against the adoption, to three in its favor.† The two members from the county of Jefferson, the venerable Robert Breckenridge, lately deceased, and Rice Bullock; and Humphrey Marshall from Fayette, now silvered with years and public services, had the honor to enrol their names in favor of the constitution, and thereby the ever enduring renown of having contributed to preserve the fruit of the Revolution; and to allow it the opportunity of ripening into the present glorious harvest of liberty, happiness, plenty, and peace. Virginia was the tenth adopting State; on the 20th of June, 1788, by a majority of eighty-eight to a minority of seventy-eight, she joined the new, and the author trusts, indissoluble confederacy of the North American

* Through the courtesy of Messrs. Brown and Marshall, the author is enabled to present the reader with the names of the Kentucky members of the Virginia Convention, which ratified the present Constitution of the United States. From *Fayette*, Humphrey Marshall and John Fowler; *Jefferson county*, Robert Breckenridge and Rice Bullock; *Lincoln county*, John Logan and Henry Pawling; *Nelson county*, Jno. Steele and Matthew Walton; *Mercer county*, Thos. Allen and Alex. Robertson; *Madison county*, G. Clay and William Irvine; *Bourbon county*, Henry Lee and John Edwards. The Constitution of the United States was published in the Kentucky Gazette, October 27th, 1787. The only members of the Virginia Legislature from Kentucky, whose names the author has been able to obtain, are John Brown, Benjamin and John Logan, Squire Boone, Swearingen, Thomas, John and Robert Todd, James Harrod, William McClung, John Steele, James Garrard, John Edwards, John Jowitt, William Pope and Richard Taylor.

† On this occasion the author has been informed by the first historian of Kentucky, that a publication of Richard Henry Lee, addressed to the Governor of Virginia, and published in the Kentucky Gazette, had a most decisive influence against the proposed new government. It strongly advised the people of the district to retain their ratification from a constitution acknowledged to be defective, until, it was amended. So plausible a ground was with difficulty resisted amidst the jealousies of this section of the country: removed too, as it was, from the immediate scene of the discords which threatened the union of the elder States.

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States. It must not be concealed, that the new constitution was quite unpopular in Kentucky; though from the situation of the district, and the imperfect diffusion of intelligence, its profound and massy merits could scarcely have been understood. It would be a curious inquiry, how many copies of the constitution, much less of the Federalist,* its chaste, and learned, and wise commentary, the joint production of some of our most consummate and virtuous statesmen, were at that day to be found in Kentucky.

On the 29th of July, in this year, the convention met at Danville, to form a constitution of government for the district, preparatory to its separation from Virginia. While this body was assembled, the sixth which had met on the subject of separation, although the first which was authorized to form a constitution; information was received, that Congress had determined to refer the question of admitting Kentucky into the union, to the new government. This was indeed, a cruel blow to the excited hopes of independent government, so repeatedly voted by Kentucky, and as often assented to by Virginia. It is not a matter of wonder, that †"there was now observed the most deep-felt vexation, a share of ill temper bordering on disaffection; and strong symptoms of assuming *independent government*. The navigation of the Misissippi, and the trade to New Orleans, now just tasted for the first time, were strenuously pressed into the argument, in favor of completing the constitution, and organizing government without delay." It was even proposed to submit the state of the district, and the course to be pursued to each militia company. This proposition, which would indeed, have been to revive the democracy of the Grecian Ecclesiai, and the Roman Campus Martius, amidst the representative republics of North America, was, by a large majority, most judiciously rejected. This body came, after protracted debate, to the following recommendation:

* Mr. Humphrey Marshall says, the first copy of the Federalist he saw, was in the hands of George Nicholas, when the former was on his journey to meet the above memorable convention.

† Marshall 1, 289.

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that the people of the district should elect another assembly, to meet in the following November, and to continue in office until the 1st of January, 1790: "that they delegate to their said representatives full powers to take such measures for obtaining admission of the district, as a separate and independent member of the United States of America; and the navigation of the Mississippi, as may appear most conducive to those purposes; and also to form a constitution of government for the district and organize the same, when they shall judge it necessary; or to do and accomplish whatsoever, on a consideration of the state of the district, may, in their opinion, promote its interests."

From the breadth and plenipotentiary character of this commission, like that of a Roman dictator, the temper of the district may be inferred; nor can there in the whole history of American government be found a career of such multiplied disappointments and abortive assemblies, as in the labors of Kentucky, to be admitted into the union. All parties appear to have been well disposed, still, as if under the influence of some enchantment, consent was given, but to be repealed; act was passed after act, and assembly met after assembly, only to give birth to a successor, as remote as ever from obtaining, what had been the *favorite object of the people for years. Nor ought the conduct of the party desiring an immediate organization of the government, to be branded with obloquy; any farther than it might have been mixed with views of Spanish dependence. For had a domestic government been organized after the repeated and harmonious *co-operation* of the great contracting parties, it is not to be supposed, that it would have been so technically misconstrued, as to have been viewed as treasonable to Virginia, or hostile to the union, owing to repeated and unavoidable accidents. The magnanimous temper of Virginia would have cured every thing. Should any such unjust imputation have been placed upon the proceedings of Kentucky, it must soon have been removed by their fidelity, had it have been, as it is believed it was, immovably fast to

* Marshall 1, 290.

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the confederacy of their countrymen. Vermont continued without the pale of the union during the whole Revolutionary war, and until March, 1791; yet no indictment was brought against her for treason. At this distance of time, the protracted delays and repeated public disappointments on this question, seem truly inexplicable. It is not known to what else to compare our long succession of fruitless conventions, than to the card edifices of children, which are no sooner erected, than at a breath they are demolished. The assertion may be safely ventured, that no sober political critic of the present day can believe, that any community in these States, would now be so trifled with and tantalized, as the people of this district were, for eight years, in obtaining a separate municiple existence. Some auxiliary resolutions for directing the election of the seventh convention, closed the labors of this addition to the numerous and ineffectual assemblies of Kentucky. So excited had public feeling in Kentucky become, in consequence of this provoking course of things, that disunion seems to have been at least proposed, as its *"idea was formerly combatted in the public prints of the time, while nothing more open or formal than the acts of the convention is recollected in its favor." A letter from Chief Justice Muter on the 15th of October, 1788, may represent the feelings of the more considerate and sober, respecting the state of public affairs. In this letter the Chief Justice combats the idea of forming a constitution without the previous consent of Virginia, as contrary to her statute, and involving the perpetrators in the guilt of high treason; and that the new State could only be admitted by consent of Virginia, under the federal constitution. But the most pregnant part of this letter is, where he represents, that the resolution of the late convention, if adopted by the people, might fairly be construed to give authority to the next to *treat with Spain*, to obtain the navigation of the Mississippi; if they should think such a measure conducive to their interest.

Every thing proceeding from George Muter would be treated by the author, with the respect inspired by a lively recollection

* Marshall 1, 294.

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of his venerable, mild, and worthy character; and the concurrence of Colonel Thomas Marshall, the compatriot, fellow soldier and friend of Washington, must add still greater weight to this letter, which was, indeed, *his measure. Notwithstanding this most respectable authority, some political feeling not at all dishonorable, or some exaggerated apprehension of consequences, seems to have prompted this public address; if there were no foreign intrigues. As it has before been remarked, the separation of Kentucky from Virginia, was an agreed case between the high parties; the difficulty was one of form and accident only. In such a state of things, it would have been cruel mockery and iniquity in Virginia, to have so far misinterpreted a separation of Kentucky, which had been the subject of repeated and mutual agreements, as to have considered it treasonable. The jealousy of the country could not, however, have been too keenly excited against any attempt at foreign dependence; it is never admitted into the creed of an enlightened patriot, until the last extremity of domestic misfortune; and even then, to be most sleeplessly watched.

CHAPTER XI.

Don Gardoqui's propositions to Mr. John Brown—Apology for Kentucky Statesmen—Court and Country parties in Convention—Wilkinson's memorial to the Governor of Louisiana—New Government of the United States—General Washington's letter to Colonel Thomas Marshall—Transylvania—Indian depredations.

Why the patriotic Marshall and Muter had so much reason to apprehend a foreign connexion at this time, now becomes a painful duty to develope. That private feelings may still be lacerated in this recital, the author laments, and which he will studiously avoid, consistently with the faithfulness of history. Motives, whether of the dead, or the living, shall not be impeached; but upon strong and conclusive testimony; guilt shall never be tortured into existence, by misrepresentation or forced construction. Under the influence of these views, let the con-

* Marshall 1, 291.

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duct of the Honorable John Brown, then a member of the old Congress, be entitled to their full bearing, while it is faithfully related. On the 29th of February, 1788, Mr. John Brown presented to the old Congress the address of the Kentucky convention, praying for admission into the Union; but it was not until the 3d of July, that it was finally acted on, and then referred to the new government for ultimate decision.

This distinguished public officer then wrote to the President of the Danville convention, giving an account of this additional failure of Kentucky expectations, notwithstanding his best exertions. In this letter was enclosed a detached scrip of paper headed *confidential** in these words: "In a conversation which I had with Mr. Gardoqui, the Spanish minister, relative to the navigation of the Mississippi, he stated that, if the *people of Kentucky would erect themselves into an independent State, and appoint a proper person to negotiate with him*, he had authority for that purpose, and would enter into an arrangement with them for the exportation of their produce to New Orleans, on terms of mutual advantage." In addition to this ominous enclosure to Judge McDowell, a †letter was written by the same gentleman to Judge Muter, dated New York, July 10th, 1788; from which the following extracts are taken, referring the reader to the appendix for the entire document. After mentioning the delay of Congress in acting on the application of Kentucky, owing to the absence of the members during a "great part of the winter and spring," and when finally committed to a "grand committee, they could not be prevailed upon to report—*a majority of them being opposed to the measure.* The eastern States would not, nor do I think they ever will, assent to the admission of the district into the union as an independent State; unless Vermont or the province of Maine, is brought forward at the same time." Again: "The jealousy of the growing importance of the western country, and an unwillingness to add a vote to the southern interest, are the real causes of opposition; and I am inclined to believe, they will exist to a certain degree, even under the new government, to

*Judge McDowell's deposition, Innes *vs.* Marshall. †Marshall 1, 301.

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which the application is referred by Congress." Again: "'Tis generally expected, that the district will declare its independence, and proceed to frame a constitution of government." "This step will, in my opinion, tend to preserve unanimity, and will enable you to adopt with effect such measures as may be necessary to promote the interest of the district. In private conversation with Mr. Gardoqui, the Spanish minister at this place, I have been assured by him in the most explicit terms, that if Kentucky will *declare her independence*, and empower some proper person to negotiate with him, that he has authority, and will engage to *open the navigation* of the Mississippi for the exportation of their produce, on terms of mutual advantage. But that this privilege can never be extended to them, while part of the United States by reason of commercial treaties existing between that court and other powers of Europe. As there is no doubt of the sincerity of this declaration, I have thought proper to communicate it to a few confidential friends in the district, with his permission, not doubting but that they will make a *prudent use of the information*." Upon this confidential letter, (written in the discharge of a critical and important trust) comment is unavoidable; it is an essential and important part of Kentucky history; and it has been the subject of most angry and exasperating controversy. This commentary is now undertaken when these passions have died away; although the author has been a witness to their fiercest storms: yet he claims to be governed by a sense of duty only, when he declares, that he continues to feel, as he always did, perfectly uninfluenced by their rage. On any other occasion than one, which has arrayed this community in such acrimonious parties, such a declaration might be unnecessary.

The first idea that strikes the mind in considering this letter in connexion with the enclosure to Judge McDowell, is, that Mr. Brown, and in all probability, many other of the ancient statesmen of Kentucky did incline to discuss, if not adopt a connexion with Spain independent of the feeble and disgraced union, which then existed; one more in name than in fact, disobeyed at home, and despised abroad. Under these circum-

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stances, the author believes such a measure so far from furnishing matter of reprobation, may have been deemed consistent with Kentucky patriotism; and even demanded by its most sacred duties. The denial of any meaning in the letters to Judges Muter and McDowell, beyond that of having been "forwarded for information," as supposed by the latter gentleman in his certificate of the 7th of August, 1806,* strikes the author as unworthy of the grave subject of communication, and the dignity of the correspondents. But what is more important, it is inconsistent with the only manly and triumphant justification of which he thinks the measure may have been susceptible. To try the conduct of Kentucky statesmen in 1788, under a confederation in ruins and in factions, by the same principles, which should now direct the mind, under an efficient and beneficent government; would be absurd and unjust. The peculiar circumstances of the times must be adverted to, in order to arrive at any just estimate of the measure, or of its authors. What then, were these circumstances? They are eloquently and no less truly narrated by General Wilkinson. †"Open to savage depredations; exposed to the jealousies of the Spanish government; unprotected by that of the old confederation; and denied the *navigation of the Mississippi*, the only practicable channel by which the productions of their labor could find a market." In addition to this, Mr. Daniel Clarke in his memoir of 1798, to Secretary Pickering, mentions that, ‡"all who ventured on the Mississippi, had their property seized, by the first commanding officer whom they met, and little or no communication was kept up between the two countries." Was this a condition for any community, much less for one of high spirited freemen with their arms in their hands, just fresh from hunting down the British lion, to tolerate any longer, than it was unavoidable? Couple these grievances, which must have blasted the industry and the dearest hopes of the country, which must have driven the emigrants back over the mountains, and condemned the rich lands of Kentucky to waste

* Political Transactions, page 30. † Wilkinson's Memoirs, vol. 2, 119.

‡ Wilkinson's Memoirs, vol. 2, Appendix 11.

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their fertility in uncultivated forests, to become again an Indian country, rather than to continue a civilized society; with the heart burnings on the subject of yielding the navigation to Spain for an indefinite time. Then, from these materials some faint idea may be conceived of the necessity for the statesmen and the people of Kentucky to look to some other protection, for the vital interests of the country, than the tottering and imbecile confederacy, which then deluded the country under the pretence of a government. Can circumstances be imagined more imperative on Kentucky patriots and statesmen, to turn their attention to a foreign connexion for that protection, which their own government could not give; and without which, all government is a mockery, and a perversion of its very purposes? To the mind of the writer, the *circumstances* of the case may have had this justification in the view of the parties.

Still, notwithstanding this apology, which is only offered as an hypothetical defence, founded on the probabilities of the transactions; the fact is, that the love of country was too strong, and the attachment of Kentucky to her elder homes, was too powerful, the share her numerous Revolutionary citizens had in the glory of the republic was too great, to allow of a separation of the country from the rest of the confederacy. Notwithstanding the long series of hardships and sufferings, which Kentucky had endured, many of which were to be attributed to an inefficient and ill administered government; her statesmen, and still more, the great mass of her people, were true to the Union, and clung with pertinacious attachment to the sacred league of the States. The ties of ancient kindred, of homes and customs, were too strong for the promptings of domestic interest and ambition to dissolve; and it is an honorable proof of the love of the union in this remote member, that no public motion in any assembly of the people, no resolution countenancing separation from the confederacy, or leading to it, can be instanced in the history of the people of Kentucky. On the contrary, her public acts, amidst the undefended devastations of the Indians, the injuries of the Spaniards, and the neglects of the federal government, constantly breathe a spirit of "filial affection" for the Union,

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and connect their ardent wishes for a separate government, with the rest of the confederacy. From '85 to 90, they petitioned to Virginia and to Congress "to be taken into union with the United States of America," "for a speedy admission of the district into the federal Union," "and to be erected into an independent member of the federal Union." The prospect of the new government then in agitation, ought to have had powerful influence with every patriot in suspending an appeal to the dreadful alternative of civil disruption and war. Nothing worthy of record beyond the very discussions which occupy this portion of our history, seems to have transpired; until the convention of November, 1788, assembled agreeably to the authority of its July predecessor. In this assembly the parties, which had been divided on the mode of separating from Virginia, acquired more development, and appeared more distinct; no doubt in consequence of the discussions which had intervened. Messrs. Wilkinson, Thomas Marshall, Sen., Muter, Brown, and Innes, were all members: yet in the acknowledgment of his enemies, General Wilkinson was the most distinguished orator, as well as writer. Was an address to be written, which should pour forth the feelings of Kentucky, a debate to be opened upon her vital interests, Wilkinson was equally the author of the one and the speaker in the other. So varied, rich, and polished, were the powers and the acquirements of this singularly versatile person, that whether in the field of Saratoga, the cabinet of Governor Miro, or in the conventions of the backwoodsmen of Kentucky, this gifted man drew all eyes upon him, and was looked up to as a leader and a chief. The friends of Wilkinson, who appear to have contemplated a separation and the formation of an independent government, without the same unnecessary anxiety for the *repetition* of the consent of Virginia, which might have been necessary and proper in a mere municipal body, not a large community, were denominated the court party; as its leading members were principally judges and lawyers: the opposition under Colonel Thomas Marshall, Sen., Judge Muter, and John Edwards, afterwards a Senator of the United States, was denominated the country party.' The first

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point of difference was, the submission of the resolutions passed by the previous convention to a committee of the whole. The court party favored this reference in order, it seems, to connect the navigation of the Mississippi with the formation of a State constitution, and to hurry the latter without waiting for the previous consent of the parent State. This had been repeatedly expressed, though not under these peculiar circumstances. It was perhaps, unparliamentary; since the very purpose of commitment is, to divide a subject into its appropriate parts, and to acquire distinct views of its facts and character by special, not general inquiries. But what is of more consequence to the present times, than this skirmish of order, is the full and prominent attitude, which the navigation of the Mississippi assumed in this convention; and mainly owing to the comprehensive spirit and sagacious mind of Wilkinson, denounced as he and his associates have been, for their exertions to promote this vital policy, not only of Kentucky, but of the teeming millions of the west. Wilkinson seems to have been more keenly alive to the importance of this trade, and of the formation of a government, which might *command* its enjoyment; than of again obtaining the consent of Virginia previous to the erection of the government. Indeed, he was disposed to obtain this channel for commercial intercourse, so indispensable to the future prosperity of the country by a Spanish connexion, if our government could not, or would not procure it. He is said* to have observed in debate, that "Spain had objections to granting the navigation in question to the United States; it was not to be presumed, that Congress would obtain it for Kentucky, or even the western country, only—her treaties must be general. There was but one way, and but one, that he knew of for obviating these difficulties; and that was so fortified by *constitutions*, and guarded by *laws*, that it was dangerous of access, and hopeless of attainment under present circumstances. It was the certain but proscribed course, which had been indicated in the former convention, which he would not now repeat; but which every gentleman present would connect with a declaration of independence, the formation of a constitution, and the

* Marshall 1. 316.

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organization of a new State; which, he added, might safely be left to find its way into the Union, on terms advantageous to its interests and prosperity. He expatiated on the prosperous circumstances of the country—its increasing population—its rich productions, and its imperious claims to the benefits of commerce through the Mississippi—its only outlet. That the same difficulties did not exist on the part of Spain, to concede to the people on the western waters, the right of navigating the river, which she had to a treaty with the United States, there were many reasons for supposing. That there was information of the first importance on that subject, within the power of the convention, which he doubted not would be equally agreeable for the members to have, and the gentleman who possessed it to communicate." Such is represented as the material substance of Wilkinson's speech by Mr. Marshall, taken, as supposed from the notes of Colonel Thomas Marshall, whose accuracy on another part of this debate, was vouched for by Judge Thomas Todd, when summoned before a legislative committee in 1806. A member of the convention then desired Mr. John Brown, who was meant, to communicate what he knew. In reply to this invitation, Mr. Brown said, "that he did not think himself at liberty to disclose what had passed in private conferences between the Spanish minister, Don Gardoqui, and himself; but this much in general he would venture to inform the convention—that provided we are *unanimous*, every thing we could wish for *is within our reach*." This backwardness does not fully agree with the letters of Mr. Brown to the two judges previously mentioned. In one of these, he communicates the Spanish minister's declaration "with *his permission*." The truth seems to be, that the party in favor of the immediate separation and independence of Kentucky, was not fully confident of its strength, and of the popular support. None of them seem to have spoken out with the boldness of Wilkinson, or with the unreserved and manly spirit worthy of the interests of Kentucky, painful as the course would have been, which these interests pointed out. Nothing further was done at this time in regard to the Spanish overtures.

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It would, indeed, be most unbecoming Kentucky to upbraid those who were most forward in promoting what they deemed to be her prosperity, and who were actuated by a patriotism, which, whatever else may be said of it, was zealously devoted to her interests in the peculiar posture of affairs. The author will not join in any reproaches of the kind. After this brief and general response of Mr. Brown, Wilkinson again rose and offered to read an essay on the navigation and trade of the Mississippi, which had been addressed by him to the Governor and Intendant General of Louisiana. The reading was called for, and so satisfactorily had it treated upon the interests of Kentucky, that the author received the *unanimous thanks* of the convention "for the regard he therein manifested for the interests of the western country." The reader is referred to the appendix as the most appropriate place for the abstract of the essay. Could the views of the court party in this convention have been very obnoxious to the country gentlemen, when this vote of thanks was accorded to the prominent member of the opposite party, and when he was constantly employed on the principal committees? This presumption seems irresistible in favor of Wilkinson and his friends. On the 8th of the month, after the postponement of a report from a committee, (of which Messrs. Edwards, *Marshall*, *Muter*, *Wilkinson*, and some others, were members) appointed to report an address to Virginia, "for obtaining the independence of the district of Kentucky, agreeably to the late resolution and recommendation of Congress." Wilkinson offered the following preamble and resolution: *"Whereas it is the solemn duty, so it is the ardent desire of this convention, to pursue such measures as may promote the interest and meet the approbation of their constituents; but the discordant opinions, which at present divide the good people they represent, render it doubtful whether they can adopt any plan, which will embrace the opinions of all, or even secure the support of a majority—in this state of embarrassment, perplexed with doubt, and surrounded by difficulties; in order to avoid error, and to obtain truth; to remove the jeal-

*Marshall 1, 339.

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quaies which have infected society; and to restore that spirit of harmony and concord, on which the prosperity of all depends; they deem it most eligible to address their constituents on the momentous occasion: Resolved, that a committee be appointed to draft an address to the good people of the district, setting forth the principles from which this convention act; representing to them their *true situation*, urging the necessity of union, concord, and mutual concession, and solemnly calling upon them to furnish this convention at its next session, with *instructions* in what manner to proceed, on the important subject to them submitted."

In pursuance of this resolution, Messrs. *Wilkinson*, Innes, Jouett, Muter, Sebastian, Allen, and Caldwell, were appointed the committee, but no further notice appears of the address ordered. This measure seems to have looked to *instructions* about separating from Virginia without her consent, and possibly to arrangements for the Mississippi trade; although they do not in so many words, appear upon its face. But upon what else, were instructions wanting, or unanimity required? It was not upon the separation in the ordinary legal way; for no dispute existed upon that measure; thus the popular appeal must have been intended to be brought to bear upon some subjects, on which opinions were divided. These were the topics mentioned before, and what then, were so likely as these, to be intended to experience the influence of popular sentiment in uniting parties, and giving ascendency to a course of measures different from the legal separation? Whatever force this conjecture may have, and it is only presented as a probable inference, addresses to Congress and Virginia were adopted, which appear in the appendix to this history, and the convention adjourned till the first Monday in August, 1789. Thus passed off a most important and critical convention of Kentucky, which might well, had they been more harmonious, have organized a government for the district; as they had been authorized to do, and which, in the words of Wilkinson, "might have safely been left to find its way into the Union, on terms advantageous to its interests and prosperity."

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It is perhaps, too much a matter of mere curiosity, to speculate upon what would have been the consequences of having organized the government on this occasion, instead of waiting four years more. But it may securely be said, that the treasonable nature of such a measure, is a perversion of the whole doctrine of popular government, between such masses of people, as the communities of Virginia and Kentucky; and above all, under the difficulties of form, which had alone obstructed the wishes of both parties to be separate States. In another point of view, Kentucky would by having organized her government immediately, have gained* "immense sums of money which were paid into the treasury of Virginia in completing titles to the Kentucky lands;" "above one million and a half acres of the best land in the district, which in the four following years, were swept away by Virginia military land warrants, would have been the patrimony of Kentucky." This latter advantage was secured by a clause in the first act of separation surrendering to Kentucky, all lands unlocated in the district, after the 1st of September, 1788. The path of colonizing and sub-independence, since so frequently, so fearlessly, and so prosperously trod by various sections of the American people, was then first to be travelled and explored by the statesmen of Kentucky, like the other wilderness, which the hunters had so nobly penetrated without a trace or a guide. No wonder, then, that our countrymen, who have ever been distinguished for their reverence for order, were reluctant to step beyond the strict confines of the statute of separation, on the part of the parent Commonwealth. Yet it would not necessarily have followed, that the new State should, on the eve of a new experiment for managing the affairs of the confederacy, so far have overcome all the obstacles of manners, language, religion, government, and national prejudice, as to have fallen into the train of Spanish provinces. When Kentucky had maintained her loyalty, in spite of sufferings under the nominal government of the old Congress, and had withstood the strong temptations, that had urged her to abandon the confederation, and set up for herself; it would be as unjust,

* Political Transactions, page 53, by William Littell.

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as improbable, to impute a disposition at this time for a foreign connexion, which she had disdained in her weakness and distress, as well as in the imbecility of the general government. Yet without such a disposition on the part of the great mass of the people of Kentucky, the project and its imputation, would be alike groundless, and destitute of all reasonable probability.

It may serve to illustrate the state of the country to record, that on the very day this most interesting convention full of "high debate" adjourned, *"a party of Indians way-laying the main road from Lexington to Limestone, fired on some wagoners near the Blue Licks, killed one of them, scared away the rest and took the horses." At the ensuing session of the legislature of Virginia, the county of Mason was erected out of the county of Bourbon, to take effect on the 1st of May, 1789. During this same session also, a *third* act of separation was passed on the 29th of December, 1788: which contained some new conditions "highly exceptionable to Kentucky, and justly so." One of these went to subject this infant Commonwealth, which had been rocked amid the war-whoop and the rifle, plundered by Indians, and shut up by Spaniards, to the payment of a portion of the domestic debt then existing against Virginia. This was required for the expenses incurred on account of the district by military operations, since the first act of separation. The other condition, which displeased the district was, an enactment which would have kept Kentucky dependent on the consent of the legislature of Virginia, as to the time for completing the titles of the officers and soldiers on the State and continential establishments of Virginia, to the bounty lands assigned them in the district, for their military services. Little stress need be placed on those obnoxious clauses; engendered let it be recollected, by the unorganized state of the district, since they were readily rescinded on the remonstrance of the subsequent Kentucky convention.

In January of this year, the first elections were held for choosing the new President and Vice President of the United States. No votes, however, were given in Kentucky for these

* Marshall 1, 341.

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high executive officers; from what causes, it has not been possible to ascertain. The new government of the United States commenced its operations on the 4th of March, 1789; an era which should be ever dear to all good Americans, and ought to have been signally so, to the patriots of this exposed frontier.

New scenes of military vigor and political efficiency, soon began to dawn on this remote province of the republic; until it has beamed "the perfect day." Can it be necessary to record, about this election, for the first President of the United States, what must be embalmed in the heart of every patriotic American; that George Washington, "the first in war, the first in peace, and the first in the hearts of his countrymen," received their unanimous votes for this last but splendid testimonial of their continued regard for his great services, and eminent abilities? The elder Adams, of such solid abilities, and devoted zeal to the interests and the liberties of his country, was placed in the Vice Presidency; second but to Washington alone, in the dignities and the gratitude of his country. To the new President elect Colonel Thomas Marshall, Sen.* "wrote an account of the district, and of such symptoms of foreign intrigue and internal disaffection, as had manifested themselves to him," "the names of Wilkinson and Brown" were alone mentioned among the implicated." In this communication Colonel Marshall was, it ought not to be doubted, actuated by an honorable zeal for the interests of his country; though the author is compelled to say, from the evidence now accessible, a mistaken one; of which both he and his illustrious correspondent were afterwards convinced. This inference flows from a letter of General Washington to Colonel Marshall, as follows: †"In acknowledging the receipt of your letter of the 11th of September, (1790) I must beg you to accept my thanks for the pleasing communication which it contains of the *good disposition* of the people of Kentucky towards the government of the United States. I never doubted but that the operations of this government, if not perverted by prejudice or evil

* Marshall 1, 344.

† Political Transactions, by William Littell.

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designs, would inspire the citizens of America with such confidence in it, as effectually to do away these apprehensions which, under our former confederation, our *best men entertained* of divisions among ourselves, or allurements from other nations. I am therefore happy to find, that such a disposition prevails in your part of the country, as to *remove any idea of that evil, which a few years ago you so much dreaded.*" This letter, taken in connexion with the subsequent appointment of Wilkinson to be a Lieutenant Colonel in the army, at the recommendation of Colonel *Marshall*, as well as others, and the repeated military commissions of high trust and expressions of thanks, as will hereafter appear, to Messrs. *Brown*, *Innes*, Scott, Shelby and Logan, amply confirm the idea; that the imputed disaffection of any of these distinguished citizens to the Union of the States, had been abandoned by Colonel Marshall himself; and most certainly by Washington, if ever admitted to disturb his serene and benevolent mind.

Connected with this communication to Washington, is an account of a visit from Dr. Conolly; the same gentleman on whose confiscated land at the Falls of Ohio, the city of Louisville had been laid out. This emissary of Lord Dorchester, the Governor General of Canada, had, in the preceding November, under pretence of looking after his confiscated land in Kentucky, in the course of his visit, called at the house of Colonel Marshall, accompanied by Colonel J. Campbell, of Louisville. His business was to sound the leading men of Kentucky, on the subject of a connexion with Great Britain in any attempt upon the provinces of Spain. The great recommendation of the proposition held out by him was, obtaining the navigation of the Mississippi, so dear to Kentucky. *"Four thousand troops were said to be ready to march at a moment's warning, in furtherance of the project." In reply to these insinuations, Colonel Marshall observed, that the retention of the western posts, and the supposed encouragement of the Indians by British authority, forbade any reliance upon the friendship of that government. The Doctor promised to represent these matters to the Governor General, and "invited a

* Marshall 1, 346.

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correspondence, which was promised in case he would set the example;" it was, however, never begun. From Colonel Marshall, the Doctor went to see General Wilkinson at Lexington; where the rumor getting out, that he was a British spy, a commotion arose among the inhabitants of that high spirited town, which endangering the safety of Conolly, "he was privately conveyed or escorted to Limestone, and thus ended the only British intrigue in Kentucky."*

The elections for the ensuing convention took place in April, when Messrs. Thomas Marshall, Muter, Shelby, Edwards, and McDowell, were again elected members: Wilkinson was too immersed in his private affairs to be a candidate.

Instances of Indian depredation and killing took place in almost every direction, near the Crab orchard on the south, on Floyd's fork and Drennon's lick on the north, and on North Elkhorn, in the interior; but otherwise too insignificant to narrate more minutely. They only serve to show the wide spread insecurity and individual danger, which still hung over the population of Kentucky. Yet at this very time, about the middle of July, the Governor of Virginia informed the county Lieutenants of the district, that the State was no longer required to defend the western frontiers; as the President of the United States had stationed a federal force on the Ohio for that purpose, and ordering them to "immediately discharge all the scouts and rangers employed" in their respective counties.

On the 20th of the month, the seventh convention assembled at the usual place, for the purpose of devising new measures about the old question of separation, on which all parties were agreed; but which, by some infatuation, none could effect. If the statesmen of Kentucky did not become profoundly versed in the nature of fundamental regulations for the government of society, it could not be owing to the want of opportunity for considering the interesting subject. The first point which occupied the attention of the assembly was, the new provisions inserted in the last act of Virginia, which they resolved "to be injurious to,

* A similar disturbance threatened the Doctor in the neighborhood of Louisville.—*Captain Hughes.*

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and inadmissible by the people of the district;" and they accordingly memorialized the legislature of Virginia, "requiring such alterations in the terms at present proposed to this district for a separation, as will make them equal to those formerly offered by Virginia, and agreed to on the part of the said district of Kentucky." The prayer of the memorial was immediately granted by Virginia, and a new act conforming its provisions to this determination, was passed on the 18th of December, 1788; protracting the proceedings on the part of the district, to another year, in this extraordinary race of disappointment.

At this convention was begun the practice of resolving against the importation and use of foreign goods; especially those of fine quality; which has been rather a favorite proceeding at different times in Kentucky. Yet no principle of political economy is better attested by the whole experience of society; than that of the superior competency of private interest to protect its own affairs, to that of any guardianship of public bodies, however benevolently intended. If political assemblies did, indeed, concentrate the wisdom of society, which their theory supposes, and which the thorough education of society ought to furnish; still the eagle-eye of self-interest, the ceaseless calculation of personal profit, would outstrip their most sagacious expectations. But how far from this hypothesis, is the actual complexion of government? And, indeed, there is another more important objection to this interference of public men with private business; independent of the voluminous lessons against its mischiefs, presented in the history of all *such* political superintendence of conscience, education and commerce. It is, that private indulgence, whether in dress, equipage, food, building, or any other mode of private enjoyment, which does not violate the rights of others; is the only effectual incentive to social industry, and security against idleness, and consequent viciousness of life. Abuses of this liberty may well be left to the moral influence of society, and their own operation upon the private interests of its members; certainly with tenfold effect to the wisest recommendations and resolutions of

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legislative bodies. Mr. Marshall epitomizes these principles in the following forcible interrogatory: "When will legislators learn, that the only sumptuary law necessary, in any society, is one, to *compel men of all descriptions, to pay for what they buy?*" Besides, in an interior country like Kentucky, removed so far from the general markets of the world, new tastes, and enjoyments, are essentially wanting to stimulate its industry, and to furnish products in return for those of foreign creation; these new demands do not present themselves so immediately before them, as before people situated on a sea-board.

The letter of Governor Randolph directing the discontinuance of the scouts and rangers on the western frontier already noticed, was taken into consideration; and a committee appointed to remonstrate with the executive of Virginia against discharging these spies, "and to state to His Excellency the President of Congress (query of the U. States?) the defenceless state of the district, the most probable mode of defence, the depredations committed by the Indians, since the first of May last, 1789; the small number and dispersed situation of the continental troops, which renders it impossible they can either assist us, or intercept the enemy." In conformity to their instructions, the committee addressed the Secretary at War, on the 8th of September; and on the 15th of the ensuing December, an answer was received "with assurances from the President, that measures would be taken for the defence of the frontier." Shortly afterwards, the President laid before Congress, a dispatch from the Governor of the north-western territory, representing the existence of Indian hostilities, and that the Kentuckians traversed his territory to get at the enemy, whom he was not able to chastise; and recommending offensive measures. In consequence of this communication, the President suggested to Congress a provisional act for calling out the militia: yet in strange contrast with these proceedings, a treaty was proclaimed as made by Governor St. Clair with the Indians north-west of the Ohio. Indian depredations, however, continued in different parts of the State, encouraged no doubt, by the continuance of the British posts on the lakes, and the greater supineness of the

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people of Kentucky; who were necessarily at this period, more engaged with their farms, than they had been, in earlier and more dangerous times. The settlements too, were more dispersed, and the pursuit after the Indians less energetic, than when the white occupation of the country was all at stake.

The fourth act of separation which was passed by Virginia conformably to the wishes of Kentucky, as formerly intimated, required a new convention to assemble on the 26th of July, 1790, to determine again on the question so repeatedly answered in the affirmative, whether "it was expedient for, and the will of the *good* people of the district, that the same should become a separate State, and independent member of the Union, on the conditions stipulated: provided, that prior to the 1st of November, in the year aforesaid, the government of the United States release Virginia from her federal obligations, arising from the district—agree that the proposed State, shall immediately after the day to be fixed for separation by the convention, be admitted into the federal Union:" which day was required to be posterior to the 1st of November, 1791. Provision was likewise made for electing a convention to organize a government for the district. At the same session, the county of Woodford was separated from Fayette, the last of the Virginia creations, to take effect on the 1st of May, 1790.

Transylvania seminary, which principally owed its establishment to Colonel John Todd, also experienced the liberality of the legislature, in bestowing on it one-sixth of the surveyors' fees, formerly conferred on the College of William and Mary. This institution has been, under various modifications and diversified fortune, the nucleus of literature and sound learning in Kentucky; around which, many other institutions, and numerous alumni have clustered. It was established by an act of Virginia in 1780, at the establishment of Lexington, on a grant of eight thousand acres of the first land in the county of Kentucky, which should be confiscated. This grant was completed out of the lands, which had been surveyed under British authority for certain persons who adhered to it, in the Revolutionary struggle. It would be a curious, though a difficult cal-

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culation, to estimate the important consequences, which this most interesting institution has had by its library, its lectures, and its professors, on the intellect and the morals of the western country. Such influences have been too much and disgracefully disregarded, in the actual legislation of Kentucky. With some indiscreet land endowments of county seminaries, which have been confided to so many promiscuous and irresponsible trustees, as to have been almost all wasted; the legislative patronage of Kentucky to any system of education for its rising generations, has been wofully remiss, and practically insignificant. To this remark the city of Louisville presents a proud exception, and a model for the rest of the State. How long shall any portion of a people blessed with such noble prerogatives of freedom, and lofty opportunities of high emprise, as the American throughout their republics so eminently are; continue practically indifferent to this seed plot of their liberties and of the most glorious attributes of moral and intellectual natures? The panegyrics of our statesmen, the waste of rhetoric in our orators on the *sublime interests of social education*, are but bitter sarcasms and caustic satires on national indifference; while the children of the republic, its future soul and animation through all the walks of society and offices of life, remain a prey to the avarice, the ignorance, the poverty, or the indifference of their parents. This fostering of social education does indeed involve within its influence, the permanency and even desirableness of our institutions of *popular power*. For let it be engraven on the inmost fibres of every patriot's heart, that the power, or in other words the freedom of a people uncultivated in mind and in morals, must prove as pernicious to themselves, as by the beneficial economy of Divine Providence, it must be short-lived in itself. Under these solemn convictions of its importance, the historian of Kentucky may be pardoned, in most earnestly commending the sacred cause of educating the hearts and minds of her people, to every citizen that aspires to the holy triumphs of benefiting his fellow men, in any of the exertions of life. However obscure such efforts may be at first, or however arduous, they will hand down his name for mem-

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ory to delight to dwell on. Actuated by this holy impulse, Kentucky would enjoy not only theatres in which should be displayed the high moral and intellectual influences of education; but the land would be overspread with school houses and teachers, that should consecrate society by spreading suitable lights of science and of learning, to every log cabin in the Commonwealth.

Indian depredations continued with the succeeding year, and became particularly aggravated upon the Ohio river, where many boats were taken and the people killed or taken prisoners. Notwithstanding these enormities, of our savage neighbors, the Governor of Virginia on the complaint of Governor St. Clair of the North Western Territory, that incursions were made from Kentucky on Indians in amity with the United States, directed that should it be necessary on any occasion to repel the attack of an enemy within the limits of the State; the most positive orders should be issued, that no *party should upon any pretence* whatever, enter into the territory either of the United States or of any Indian tribe. The execution of such instructions would have been nearly tantamount to surrendering the western country to the Indians; as no offensive expedition, (which were the only effectual ones,) and no pursuit could have been carried over the Ohio river. The fact of these Kentucky incursions is however denied on the authority of the Kentucky Gazette, the files of which on being examined contained no notice of any expedition at or any way near the times alluded to by the Governor of the North Western Territory.* Yet had any parties of this description have been instituted, the news was too deeply interesting to the whole country to have been omitted.

* Political Transactions, page 47.

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CHAPTER XII.

Gen. Harmar's Campaign—Eighth Convention of the District—Separation from Virginia agreed upon—Col. Hardin's battles—Captain Hubbel's defence against the Indians—Gen. Scott's Expedition—Col. Wilkinson's Expedition—Gen. St. Clair—Board of War in Kentucky—St. Clair's defeat—Pretended retaliation by Gen. Scott.

The continuance of these aggressions, at length aroused the people to rely upon their own energies and again to pursue their wily and fugitive enemy, into his own forests and towns. For this purpose Gen. Scott with two hundred and thirty volunteers crossed the Ohio at Limestone, and was joined by General Harmar with one hundred regulars of the United States. The party proceeded to the Scioto against a camp of Indians, but they found it abandoned. A small detachment of *thirteen* men however surprised a party of *four* Indians, who were all killed by the first fire. Such particulars are too paltry and too bloody for further detail. By the 13th of April, the Secretary at War wrote to Harry Innes, (who had been appointed a judge of the United States for the District of Kentucky) authorizing him to call forth scouts for the protection of the frontier.

On the 30th of the month, Governor St. Clair arrived at the falls of the Ohio on his way to concert with General Harmar an offensive expedition against the Indians; and an assemblage of people at Danville resolved, "that the frequent depredations of the Indians on persons and property, made it necessary to march against their towns." A meeting of the field officers of the militia was therefore proposed at the same place, on the 26th of the month. On this day, the eighth convention assembled, and after making George Muter President, for the *eighth* time renewed the resolution in favor of separation from Virginia on the terms prescribed in her act for that purpose; accepted the conditions specified in that act, as a solemn compact between the two States, and appointed the *1st day of June*, 1792, for the existence of the State of Kentucky "as separate from and independent of the State of Virginia." Thus were brought to a close, six years labor of Kentucky to become a separate State; which, if they are not perfectly parallel with the labors of Hercules,

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afford the most provoking and tantalizing series of disappointments, that were ever calculated to try the temper, and prove the love of social order, in any community. Such a scene of political trials would explode the forbearance of any portion of the American people at this day; and still, they were two years off the fruition of their reiterated wishes. Addresses were voted to the President of the United States and to Congress, praying for admission into the Union agreeably to the time prescribed by Virginia; they moreover directed the election of a convention for the formation of a Constitution, in the month of December, 1791, allotting five representatives to each of the nine counties without regard to their population, and limiting its existence to seven months, and to assemble on the first Monday in April at the town of Danville.

The administration of the general government now began to be convinced of the perfidy of the Indians, and the impossibility of relying upon treaties alone to preserve the peace of the frontiers. The Executive was indeed in favor of more energetic measures than Congress would sanction,* after having exhausted magnanimous offers of peace. So soon as the failure of negotiation with the Indian tribes was ascertained, the government took the most effective means in its power, to make them feel the force of arms. Brigadier General Harmar "an intelligent and gallant officer" of the revolutionary army, who had been appointed under the Old Congress, was placed at the head of the United States troops. These amounted to 320 men. The General was authorized to call upon Virginia and Pennsylvania for detachments of militia, which made his whole force amount to 14 or 1500. Insignificant as this may now appear, it was at that day, an imposing force for Indian operations. The march commenced on the 30th of September, 1790, from Fort Washington, now the site of the flourishing city of Cincinnati, with a view of attacking the Miami towns, often called *Omi* by a corruption of the French *Au*, the seat of the present Fort Wayne, on the south side of the Maumee at the junction of its head branches. After seventeen days'

* Marshall's Washington, vol. 2, p. 193, 208.

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march the army reached the great Miami village, which they found set on fire by the Indians. The enemy, Parthian like, with their usual agility kept out of the way of the unwieldly movements of the main body; till they found their own time and opportunity. The destruction of the town with that of large quantities of corn and other provisions was completed. These are the most fatal blows, which can be struck against such a foe, next to his personal destruction.

While our troops were encamped at the Indian towns a trail of the enemy being discovered, a detachment of one hundred and fifty Kentucky militia with some thirty regulars under Captain Armstrong and Ensign Hartshorn, commanded by Col. Hardin, set out in pursuit. After having marched about six miles the detachment was surprised by a body of Indians, who were concealed in the thickets on each side of a large plain; which they had effected by going on, in their trail for some time, and then returning on each side of it, to lay in ambush for their pursuers. When these had fairly got between the Indian lines, a fire was received "as by a signal, from* about seven hundred Indians on both sides of the ambuscade, which put the militia to disgraceful flight, without firing a single shot, and left the handful of regulars to meet the whole brunt of the action. The Indians, under the command of the celebrated Little Turtle, whose Miami name was Michikinaqwan or Mechecunaqua, as they did at the Blue Licks, now rushed upon the overpowered remnant of regulars, which defended itself "at their bayonet points with the greatest possible obstinacy," till they were all killed except the two officers and two or three privates. Ensign Hartshorn was saved by falling behind a log in the retreat, which screened him from the eye of his pursuers; while Captain Armstrong was preserved by plunging into a swamp, in which, he sank up to his neck within two hundred yards of the field of action. Here he remained the whole night a spectator of the war dance performed over the dead and wounded bodies of the poor soldiers, who had fallen the previous day, amidst which, the shrieks of the wounded

* Captain Wells, who was with the Indians—Western Review, vol. 2, p. 181.

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were mixed with the horrid yells of the savages. A circumstance, which seems to imply most unusual bravado on the part of the Indians; only equalled by the unaccountable inactivity of the main army but six miles from the scene of action, and after many fugitives must have come in from the flight. Indeed the two officers, so wonderfully preserved, came into camp in the course of that very night. In the mean time the Indians poured in from the contiguous towns, to reinforce their countrymen. Some skirmishing then ensued with Harmar's scouts, but nothing material happened until two days after the army had left the Miami village; when at seven or ten miles' distance, the General ordered a halt, and on the night of the 21st* detached four or five hundred militia with about sixty regulars under Major Willis, again placed under the chief command of Col. Hardin,† who was ordered to march back and endeavor to surprise the town. On entering it, a small body of Indians was discovered, which immediately fled and decoyed the militia in front, into a pursuit in different directions, leaving the regular soldiers by themselves. When the dispersion of the militia was thus effected, the main body of the Indians under the same distinguished chief as before, which had reserved itself for this blow, attacked the regulars with the utmost fury, notwithstanding the return of some of the militia on their rear. Nothing could exceed the intrepidity of the savages on this occasion;‡ with all undauntedness conceivable, they threw down their guns, and with their tomahawks rushed upon the bayonets of the soldiers; a destructive warfare to them and very different from their usual economy of life; but with their relative superiority, which our tactics of fighting by *detachment* had given them, still more destructive to the whites. While a soldier had his bayonet in one Indian, two others would sink their tomahawks in his head. The defeat of the regular soldiers was most bloody and fatal, not one escaped; they all fell with

* Marshall's Washington, vol. 2, p. 208—Metcalf's Collection, p. 108.

† The father of the late Gen. Martin D. Hardin of distinguished ability and worth.

‡ Judge Marshall represents this action to have taken place on both banks of the St. Joseph's; one column under Col. Hardin marched on the west bank, and two others on the eastern side under Major Willis with the regulars and Major McMillan with the militia—volume 2d, page 208.

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their gallant Major at their head, bravely defending the cause of their country; while double the whole detachment and fourteen times the numbers of the regular portion of that detachment, were but eight or ten miles off. Why this wanton exposure to be beaten by detail should have been encountered, while the main force was kept inactive and not moved into supporting distance, the author is not military critic enough to know. To his mind it appears to have been a most unnecessary waste of life, and sacrifice of superiority in favor of the enemy.

The militia before the complete destruction of the regulars, had returned from the pursuit, which had so fatally divided the detachment; and a portion of them, with their Colonel was brought into action. The contest was maintained for some time with equal effect, until they were overpowered by a superior foe flushed with his triumph *over the regulars;* but Hardin was compelled to retreat, leaving the dead and the wounded in the hands of the enemy; who did not, however, dare to pursue, much as they delight in wreaking their vengeance on a flying enemy, next to his surprise. The latter indeed, they seem to think the very criterion of generalship.

Great discontents arose between the regular and militia portions of the troops; as usually happens in the train of other misfortunes. One party reproached the other with unequal exertion; to both the destruction was heavy, the militia lost from ninety-eight to one hundred and thirty of their number, and had ten wounded; while the regular troops had lost nearly seventy-three out of three hundred and twenty. It may well be called Harmar's defeat; when he kept two-thirds of his troops, as unavailing to the support of his detachment, as if they had been on this side of the Ohio. What was the use of superior numbers, when they were not brought into action or even to appear before the enemy, which was but ten miles off? The troops returned to Fort Washington, by easy marches, with all their artillery and baggage by the 4th of December. Courts martial were called on both General Harmar and Col. Hardin; both were, however, honorably acquitted. The former, though sustaining a high character as a disciplinarian and most gallant

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officer, was not again ordered on command and resigned. On the whole, this expedition ineffectual as it proved in the main, and defeated as it was twice in detachment with great loss, gave the Indians reason to triumph in their opposition to so formidable an invasion: accordingly the depredations of the Indians on the settlements of Kentucky increased in ferocity and number, particularly on the Ohio.

In the instance of Captain Hubbell* descending the Ohio, in a family boat with nine men, the engagement with the Indians in canoes was desperate beyond the constant horror of these savage contests: after losing three of his men, having three more wounded, and himself shot through the arm, he repulsed the enemy from the gunwales of his boat with sticks of wood, and finally escaped. The distinguished heroism of the transaction will entitle it to a place in the appendix. At the same time, the boat of Greathouse was taken without resistance, so great is the difference of character: himself and a boy of fourteen were instantly killed, and a number of others found whipped to death, after having been stripped, tied to trees and with the appearance of lashes given by large rods, which were lying by, worn with use. It might have been observed before this time, that Judge Innes† in a letter to Secretary Knox of the 7th July, 1790, had declared, that he had "been intimately acquainted with this district from November 1783, to the time of writing; and that fifteen hundred souls have been killed and taken in the district and migrating to it; that upwards of twenty thousand horses have been taken and carried off; and other property to the amount of at least fifteen thousand pounds."

To give greater effect to the defence of the frontiers, small posts were established round the remote settlements, consisting of from twenty to five men, which were found very serviceable by giving security and satisfaction.

On the 13th of December the President of the United States recommended the adoption of the new State of Kentucky into the Union, in both affectionate and honorable terms, which were reciprocated in the addresses of both houses; then usual in reply

* Metcalf's Collection, page 146. † Political Transactions, page 58.

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to the President's communication. These affectionate expressions of the different departments were realized on the 4th of February, by passing an act to admit Kentucky into the Union on an equality with the other States. The year 1791 was most busily marked with Indian hostilities, and military expeditions on our part, to repel and punish them.

In pursuing this defence of the frontiers, the administration on consultation with Mr. John Brown, then the only member of the House of Representatives of the United States from the western country of Virginia, including the district of Kentucky as a distant precinct; adopted the following plan. Messrs. Scott, Innes, Shelby, Logan and Brown, were appointed a local board of war for the western country, to call out the militia on expeditions against the Indians, in conjunction with the commanding officer of the United States, and to apportion scouts through the exposed parts of the district. This plan was the result of considerable consultation and some compromise. When Gen. St. Clair's name was mentioned by Gen. Hamilton to Mr. Brown, as the commanding officer in the west, the latter gentleman remarked, that without laying any stress upon his misfortunes during the Revolutionary war, his sentiments upon western interests rendered him unpopular in Kentucky. But, said Mr. Brown, if a local power can be deposited in the district, to organize mounted expeditions against the Indians in the old way; he would withdraw any objections to the appointment of Gen. St. Clair. This gentleman was accordingly invested with this command, and the board of war organized as mentioned above. In consequence of this arrangement, an expedition was appointed and placed under the command of Gen. Charles Scott, with Wilkinson as second in command, at the head of 8 or 900 mounted men. The march took place on the 23d of May. *"By the 31st the party had marched one hundred and thirty-five miles over the country cut by the branches of White river and many smaller streams with steep muddy banks, presenting bogs of deep clay from one to five miles wide, rendered almost impervious by brush and briars. The rain fell in torrents every

* Metcalf, page 110.

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day—wearing down the horses and destroying the provisions. On the 1st of June an Indian was discovered on horseback in an extensive prairie, whom it was in vain attempted to intercept; the march was now hurried with all possible rapidity, and having come one hundred and fifty-five miles from the Ohio, two small villages were discovered on the Wabash. The main town was now discovered to be four or five miles in front. Col. John Hardin was now detached with sixty men, and a troop of light horse under Capt. McCay, to attack the towns on the left, while Gen. Scott marched with the main body against the principal village, whose smoke was discernable. The attack was gallantly commenced by Capt. Price, and as the troops reached the high ground overlooking the Wabash, the Indians were discovered in great confusion, endeavoring to make their escape over the river in their canoes." Wilkinson was ordered to rush forward with the first battalion; and the General then says, it "gained the bank of the river, just as the rear of the enemy had embarked, and regardless of a brisk fire kept up from a Kickapoo town on the opposite bank, they, in a few minutes, by a well directed fire from their rifles destroyed all the savages with which five canoes were crowded. The enemy still kept possession of the Kickapoo town. "I determined" says Gen. Scott, "to dislodge them; and for this purpose ordered Captains King and Logsdon's companies to march down the river below the town, and cross under the command of Major Barbee. This movement was unobserved, and my men had taken post before they were discovered by the enemy, who immediately abandoned the village. About this time word was brought me that Col. Hardin was encumbered with prisoners, and had discovered a stronger village to my left, than those I had observed; which he was proceeding to attack. I immediately detached Capt. Brown with his company to support the Colonel; but the distance being six miles, before the Captain arrived the business was done, and Col. Hardin joined a little before sunset, having killed six warriors and taken fifty-two prisoners," Lieut. Colonel Wilkinson was now detached with three hundred and sixty men in front, all who could be found in a capacity to

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undertake the enterprise. This party attacked the important town of Kethlipecanunk at the mouth of Eel river, a western branch of the Wabash. "Our party came into the vicinity of the town before eleven o'clock and remained on their arms until four o'clock, when in half an hour more, it was assaulted in all quarters. The enemy was vigilant, gave way on my approach and crossed Eel creek, which washed the northeast part of the town. The creek was not fordable, but the troops rushed to the water's edge and poured in a volley, which in five minutes drove the enemy from their covering. On the same day, after having *burned* the towns and adjacent villages; and *destroyed* the growing corn and pulse; the detachment began its march for the rapids of Ohio, where it arrived on the 14th, without the loss of a man by the enemy and five only wounded; having killed thirty-two, chiefly warriors of size and figure, and taken fifty-eight prisoners." The Colonel very humanely discharged sixteen of his feeblest prisoners with a friendly talk to the Wabash tribes. These soldierly expeditions, more brilliant, however, in appearance than destructive to the enemy, were followed in the month of August by a second volunteer expedition, which was placed by the board of war under the command of Wilkinson. This party after struggling with great difficulties, arising from the ground and their ignorance of the country; at length on the 7th inst. struck the Wabash four or five miles above the mouth of Eel river; crossed the former river until they came opposite to the town of L. Anguille, or according to the Indian sound, Kenapacomaqua.* Here, the enemy was found on their flight; a charge was ordered, which was obeyed with the utmost elacrity. "Six warriors and (in the hurry and confusion of the charge) two squaws and a child were killed; thirty-four prisoners were taken and an unfortunate captive released, with the loss of two men killed and one wounded." The same cruel course of destroying the crops was unavoidably pursued, to the amount of four or five hundred acres of corn, chiefly in the milk. This had been replanted since the destruction in the previous June, and was again in high cultivation. For an

* The site of the present Logansport, Indiana.

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enemy less ferocious and amenable to the laws of civilized warfare, miserable as they are, the heart would grieve over this blasting the labor of the year and the principal subsistence for women and children. But it is one of the worst curses of war, to steel our hearts against the sufferings of our enemies, and shut up the very sources of compassion. In justice to Gen. Scott and Col. Wilkinson, it ought to be mentioned, that they sternly forbade the practice of scalping* the enemy, which had hitherto characterized the white warrior as much as the red one. Both these gallant officers, to whom the western country is so much and deeply indebted for military services, had fought in fields of too fair fame (for they were chiefs in the revolutionary struggle,) to sully their arms by these barbarian practices. They begin by overleaping the boundaries of mercy and humanity in one instance, almost inevitably prompting their violation in others; till there is is no restraint on the outrages of temper. This portion of Kentucky history almost entirely lay on the northwestern side of the Ohio river; where the struggle between the white and the red men, was now transferred; and which was mainly throughout the contest supported by the blood and valor of Kentucky.

The general government, particularly the legislative department,† finding so little effect from the expedition of General Harmar, *determined with perhaps* too little respect for the enemy in their own fastnesses, to terminate the war with the campaign; this is manifest by the short enlistment of the troops for six months. In the course of the ensuing September, the different bodies of men were collected at Cincinnati, then Fort Washington, from the points at which they had been enlisted, to form the new expedition against the Indians. The officers are represented to have been the very elite of the revolutionary

* This savage custom is represented as prevailing with some difference, among the Scythians in the time of Herodotus. "They carried about them at all times this savage mark of triumph; they cut a circle round the neck, and stripped off the skin, as they would that of an ox. A little image found among the Calmucs, of a Tartarian deity, mounted on a horse, and sitting on a human skin, with scalps pendent from the breast; fully illustrates the custom of the Scythian progenitors, as described by the Greek historian." Pennant as quoted by Dr. Godman, vol. 1, p. 29 of his Natural History.

† Marshall's Washington, page 193, vol. 2, foot note.

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army; the men, however, were of the most ordinary character, as is likely to have been the case, just after the close of a long war; and the general engagement of the more promising of them in the walks of civil life. But a source of difficulty greater than inferiority of character, presented itself in the little time afforded to discipline the army; and unite men and officers in one cordial and efficient band. Levies raised in the summer, marched to the field early in the fall, against an enemy requiring no common portion of skill and experience to understand and to repel its covert, wily and ferocious tactics; could scarcely have warranted any sanguine anticipations of success. The hardy and dextrous habits of the frontier settler, rivitted and confirmed by a life led in the woods, and in the mimic warfare against their tenants, are all brought into full, and too often unequal requisition, in this tremendous encounter of conflicting states and habits of society. How inadequate then must have been the preparation of those troops, many of whom had been gathered from the lazy and corrupt haunts of towns! No wonder then, that this hurried movement with such materials; added to the want of confidence in regular troops, which possessed the Kentuckians; particularly since the heavy loss of life with no adequate effect, under Harmar, prevented any volunteers from offering themselves in Kentucky. Yet her hardy and adventurous people had ever borne the brunt of Indian hostility with the eagerness, which amusement, rather than a most horrid warfare, full of hardship and danger, was calculated to inspire. No general officer in Kentucky could be found to take the command, and the requisition of the general government for troops had to be filled by reluctant drafts, for one thousand men, the command of whom was given to Colonel Oldham.* The army amounted to about two thousand regulars, including a corps of artillery and several squadrons of horse; which with the militia, made an aggregate of three thousand men. The expedition left Fort Washington about the first of October by the way of Fort Hamilton, situated on the

* The father of our worthy citizens Major Oldham and his brother the Judge of that name in this city, and who was killed in this action.

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Great Miami, in the direction of the Miami towns, that were the object of the campaign; and which lay upon the Miami, or Maumee of the Lake. The old difficulties of Indian warfare again presented themselves, which had always attended the operations of *regular* armies, against the savages of North America: roads were to open, bridges to build for the conveyance of artillery and stores; and moreover, forts to erect in order to keep up the line of communication with the Ohio river, the base from which provisions and reinforcements were to be drawn. These various exertions were to be made at the close of the season for active operations with ill clad troops, and by no means the best affected, or under the best discipline. An ardent and vigorous commander, might well have failed in combatting these numerous difficulties; but the government had chosen Arthur St. Clair, "a veteran of the revolution, possessed of both talents and experience, but old and infirm." The stern and trying scenes of war, and a war above all others with wily barbarians, amidst their own embarrassing fastnesses, call for sleepless energy and inexhaustible activity; these qualities sometimes survive the ardent period of youth and middle age; but much more generally share the decline of the other physical powers. In no service is age, even a green old age, more generally misplaced, than in a war against such an enemy as the Indian. When disease is added to these natural sources of debility, what but failure ought to be expected? Was not the employment of our Dearborns and Hulls in the late war against Great Britain, a repetition of the same errors as that of St. Clair in 1791? This unfortunate officer was so affected by gout, that he could not walk, and could neither mount or dismount a horse without assistance. Moreover, as if these disheartening circumstances were not sufficient, the enlistments of most of the men had expired before the campaign ended, and attempts had been made to re-enlist them under circumstances which greatly disaffected them; one or two hundred militia too deserted. Against all these omens, General St. Clair felt it to be his duty, to satisfy the expectations of the government, by urging his march to the Indian towns. Before he

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reached them, he had been obliged to detach the first regiment under Major Hamtramck to bring back his militia deserters and to protect several convoys of provision, the plunder of which had been threatened by them. On the 3d of November, the army came to a village situated on a small tributary stream of the Wabash* about twelve yards wide; which Gen. St. Clair mistook for the St. Mary's, a branch of the Maumee. Here the troops were encamped in the following order,† "upon a very commanding piece of ground in two lines, having the above mentioned creek in front, the right wing composed of Butler, Clarke and Patterson's battalions, commanded by Major General Butler, forming the first line; and the left wing consisting of Bedinger and Gaither's battalions and the second regiment commanded by Colonel Darke, formed the second line; with an interval of about seventy yards, which was all the ground allowed.‡ The right flank was pretty well secured by the creek, a steep bank, and Faulkner's corps; some of the cavalry and their piquets covered the left flank. The militia were thrown over the creek in advance about a quarter of a mile, and encamped in the same order." The next day the General had intended to throw up a slight work, the plan of which was concerted that evening with Maj. Ferguson; and to have moved on to attack the enemy, as soon as the first regiment had come up. The wily enemy did not wait for this junction of the force opposed to them; but about half an hour before sunrise on the fatal 4th of November and just after the men had been dismissed from parade, the attack began on the militia. This portion of the army soon gave way and rushed into camp through the battalions of Butler and Clarke, throwing them into considerable confusion, and followed by the Indians at their heels; the fire of the front line checked them; but almost immediately, a very heavy attack began upon that line, and in a very few minutes it was extended to the second likewise; the great weight of it was directed against the centre of each; where the artillery was placed, from which the men were repeatedly driven with great slaughter. General St. Clair, who, notwithstanding

* Marshall 1, 379. † McClung, 334. ‡ St. Clair's dispatch.

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his illness, was borne about every where in his litter into the thickest of the fire, giving his orders with the coolness and self-possession worthy of a better fortune; directed Col. Darke to rouse the Indians from their covert with the bayonet, and to turn their left flank. This was executed with great spirit; but although the enemy was driven three or four hundred yards, for want of numbers or cavalry, they soon returned and our troops were forced to give back in their turn. The savages had now got into the American camp by the left flank, having pursued back the troops that were posted there: again several charges were made with effect: but in these efforts, great carnage was suffered from the concealed enemy and particularly by the officers. Every officer of the second regiment fell except three, more than half the army was killed: under this lamentable slaughter, it became necessary to make another charge against the enemy, as if with a view to turn their right flank, but in fact, to regain the road from which the army were intercepted. This object attained, the retreat began and soon degenerated into a "flight," a "precipitate one it was in fact," as so honestly owned, in the simple and dignified dispatch of Gen. St. Clair. Arms were thrown away even after the pursuit had ceased; the artillery was necessarily abandoned, for not a horse was left to have dragged it off, had that have been practicable, and the General was mounted on a packhorse "which could not be pricked out of a walk," "The rout continued quite to Fort Jefferson, twenty-nine miles from the scene of action," which was reached about sun-set; while the battle ended about half after nine in the morning. The troops were then marched back in good order to Fort Washington by the 8th of the month. In this disastrous battle, which may well be called a second Braddock's defeat,* (for the loss in killed and wounded amounted to nearly six hundred, about the same, as is supposed with that of the latter) all the baggage and seven pieces of artillery were left on the battle ground. The behavior of the Indians on this occasion, was singularly daring; after delivering

* Judge Marshall represents Braddock's force as 1200, vol. 1, p. 8, and Col. James Smith says the Indians killed all their prisoners.—Col. Smith's narrative.

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their fire, they rushed on with their tomahawks; one indeed, at the sacrifice of his own life, darted into the camp and tomahawked and scalped Major General Butler, where his wounds were dressing, though the Indian was instantly put to death. A variety of opinion has been expressed in regard to the numbers of the enemy engaged in this battle; varying from four thousand to ten hundred: the former estimate is utterly too extravagant for all our acquaintance with Indian force. Against General Wayne,* they mustered but two thousand, according to his own account; and only half that number from Col. McKee's letter to Col. England at Detroit; though he had been advancing against them for two seasons. Our own force engaged in the action, after deducting the first regiment, amounted to about twelve hundred men, exceeding in all probability, the number of the Indians; but with all their gallantry and even hard fighting, wofully inferior to the enemy in efficiency; had our men flanked out according to all Indian fighting when they had roused the enemy from the grass and the bogs, their opportunity would have been at least equal with them. The truth is, that the division of the force was highly dangerous; not worth the deserters after whom a large detachment was sent; and if necessary to secure the provisions in the rear, it had been better effected by a retrogade movement of the whole body; the deficiency of cavalry or mounted men, was also most fatal; still the radical error of the campaign was forcing disaffected, unprepared troops into such hazardous warfare. It is due to our adversaries to record, that the Indian chief† who commanded them in this great battle was Little Turtle, who had defeated Colonel Hardin in Harmar's campaign; assisted no doubt by the Shawanee chief Blue Jacket, and the Delaware Buckongahelas. This eminent native chief, the imitator of Pontiac in influence and war, is represented as planning this attack in opposition to many other chiefs; and that he was arrayed with silver medals and jewels from the ears and nose, in all the foppery of Indian dress mixed with Euro-

* Wayne's dispatch, Metcalf's Collection, p. 160. †Idem p. 138, and Thatcher's Indian Biography.

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pean clothes: he it was, who wisely withdrew his countrymen from the pursuit, telling them they had killed enough of the Americans. The loss of the Indians in this battle is not certainly known; but in no probability, could it be proportionate to that of the whites; the former fought mostly under cover of logs or grass, while the latter were gathered into a target for the whole fire of the enemy. "An American officer who encountered a party of thirty Indians near the battle ground, a day or two after the defeat (and was detained by them, till they believed him a friend from Canada) was informed, that the number of killed was fifty-six."*

A few weeks after this defeat, Gen. Scott having raised a volunteer corps of mounted men, is *said* to have dispatched some scouts to reconnoiter the enemy, who, when they had arrived within a few miles of the battle ground,† discovered a large party of Indians diverting and enjoying themselves with the plunder they had taken; riding the bullocks and to all appearances generally drunk. This condition of things was quickly reported to their commander; a force march was ordered, and the corps being divided into three parties, fell upon the enemy by surprise and routed them with a slaughter of *two hundred* killed on the spot; all the cannon and stores in their possession were retaken, and the remainder of the savage body put to flight. Gen. Scott, in this pretended retaliation upon the Indians, is represented to have lost six men; to give greater plausibility to this tale, he is said to have given the following affecting description of the fatal field of St. Clair's defeat. In the space of three hundred and fifty yards lay five hundred skull bones; and from the battle ground for five miles, the roads and woods were strewed with skeletons and muskets. This would indeed have been a retaliation almost merited by the bloody field of St. Clair; but an attentive reader must have been astounded at the greatness of the alleged carnage. Two hundred Indians killed would have been a more memorable destruction of the savages, than had ever been ascertained, (it is believed, in any one contest) during the wars of more than two centuries with the European

* Thatcher's Indian Biography, vol. 2, p. 249. † Metcalf, p. 140.

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race. But this whole account is utterly fabulous; the Kentucky troops did not go beyond the Eagle creek hills in their own State, and did not cross the Ohio. An actor* in the party itself, has assured the author, that the whole expedition to the field of battle is a fiction: the panic of the western country was too great to admit of so remarkable an enterprise to a scene, which had filled the country with dismay and with mourning.†

The elections for members of our eighth and last convention anterior to the formation of the State, took place in December, 1791; the period of the meeting was not, however, till the first Monday in the ensuing April at Danville. In January of the latter year, Colonel Wilkinson, who had figured so largely in the affairs of Kentucky, and in her trade and defence with signal service, was appointed a Lieutenant Colonel in the second regiment of United States' troops, and took command of Fort Washington.

The old story, but of melancholy import at the time of Indian depredations continued from Danville to Louisville; and to punish and prevent them, Congress passed an act for the defence of the western frontiers.

It is solacing to the feelings to turn from this constant catalogue of blood, to the rise of the useful and peaceful arts among us, which, however, could only be secured by first putting it out of the power of the Indians to interrupt their development. Higby's grist mill near Lexington, and one on Fountain Blue near Harrodsburg, were among the earliest water mills in the State. The former was built before the fall of 1785. To Messrs. Craig and Parkers, Kentucky is indebted for the establishment of the first paper mill near Georgetown in Scott county.

But this brief notice of our arts is again interrupted by the din of war; and yet the President of the United States, still in much forbearance, thought it prudent to offer the Indians peace. Indeed what had we to gain of these poor naked miserable sav-

* H. Marshall, Esq.

† The original sources of this mistake which have imposed on Mr. Trumbull, Mr. McClung and Dr. Metcalf, the author has not been able to detect.

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ages, but peace, and if they would but have granted it in good faith, by negotiation, much bloodshed might have been saved on both sides. Notwithstanding this disposition on the part of the United States, at this very time, it was ascertained "that the Cherokees of five towns would join the Shawanees in the war against Kentucky;" and yet hostilities were forbidden on the part of the whites, while the effect of pacific overtures was ascertaining.

CHAPTER XIII.

Convention of 1792—George Nicholas—First Constitution—Boundaries—First officers of Government—Compensation—Intrigues of Genet in Kentucky—Remonstrances of Gen. Washington with Gov. Shelby—French attachments in Kentucky.

On the first Monday in April, the convention for forming the first Constitution of Kentucky assembled, as previously indicated. The most distinguished man in this body, and who may emphatically be called the author of the first Constitution of Kentucky, was George Nicholas, the most eminent lawyer of his time in Kentucky; whether his learning or his powers of mind be regarded, and the father of the present Judge Nicholas. This gentleman had emigrated from Virginia, about '90 or '91, and had devoted himself with the most exemplary and untiring energy to a profound and thorough comprehension of his complex and intricate profession. Presenting too, difficulties of peculiar and novel embarrassment in the condition of our land law, which presented a terra incognita for the sagacity of Kentucky judges and lawyers to explore and to coast. He is said to have devoted seven hours a day for many years in order to reach a lofty standard of professional excellence, which he had set before his generous ambition; the allurements of company were disdained, and they were left to the hospitalities of his lady, when their entertainment came into competition with his professional studies. Col. Nicholas is said not to have been an eloquent or graceful speaker, although a powerful and impres-

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sive one, and always possessed of great influence with the courts, and of widely extended reputation with the people. Next to Col. Nicholas were judges McDowell and Sebastian and Alexander S. Bullitt, all gentlemen of talents, information and habits of public business. There ought to be some curiosity in regard to the labors of this convention,* for although the Constitution formed by it, no longer directly governs the affairs of Kentucky; still it is one of our political muniments; and as the earliest political fabric after the Revolutionary war, possesses an interest to which no American patriot, much less no citizen of Kentucky ought to be insensible. For this purpose an abstract of the material parts of the Constitution of 1792, is submitted to the reader. The legislature was divided as at present into two branches, a Senate and a House of Representatives; the latter elected by the free white male residents, annually; the former by *electors*, for four years. The electors were chosen every four years and formed a college for the choice "of men of the most wisdom, experience and virtue, in the State as Senators;" and likewise at the same time elected a Governor. The peculiar features were, that the Senate might *fill its own vacancies*, (almost unavoidable in a body chosen independently of any local districts:) and an executive veto on the disapproved acts of the legislature, which could only be invalidated, by a vote of two-thirds of both branches of the legislature. Another peculiar provision, not generally recognized in the south-western country of the United States was, that all elections were directed to be by ballot. The Supreme Judiciary both as to matters of law and equity was constituted much as at present, of one Supreme court and such inferior courts as the legislature may establish; with one singular provision, that it should have original and final jurisdiction in all cases respecting the titles to land, under the present land laws of Virginia, including those which were depending in the present Supreme court for the district of Kentucky at the time of establishing the new court. It was, however, provided, that the legislature might, whenever they thought it expedient, take

* Its Journal still slumbers in perishable manuscript in the department of State.

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away entirely this original jurisdiction. The greatest departure from the institutions of Virginia was, the election of sheriffs and coroners, who were to be chosen by the people for three years; provided they otherwise behaved well. The general character of this Constitution evidently bears a strong similitude to that of the United States; whose merits were now widely diffused by the publication of the "Federalist," a collection of pure, dispassionate, learned and sagacious discussions of the Constitution of the United States. This joint production of Mr. Madison, Judge Jay and Mr. Hamilton; if the author were not afraid of being charged with hyperbole; he would denominate, a golden commentary on a diamond text. In addition to this perennial fountain of political wisdom, may be added the diffusion of the constitutions of the other States, as storehouses, or fountains from which to draw constitutional provisions. The Senate appears to be an imitation of the Maryland body of that name; the election of Governor was drawn from the Constitution of the United States, as well as the veto of that officer. On the whole, it strikes the writer as a much better balanced Constitution than our present, which has swallowed up the executive authority and left a mere shadow of restraint upon the Legislature. The Constitution of the Senate afforded the probability of a selection of more elevated character for its members, than our present local elections; the principal objection seems, the power of filling its own vacancies; and in party excitements, so constant under our government, the irresistible one, of depriving the minority of any representation. The same remark may be made in regard to the election of Governor; did not the actual working of our political system render the intervening link of electors, merely nominal; whenever the public mind has made its selection, which it has almost always exercised. The election of fiscal officers as sheriffs by the people, seems incompatible with the pecuniary responsibilities involved in the office. It is almost sure to make the sheriff and his securities the victims of indulgence, inconsistent with private safety and the punctual collection of taxes. There is one effect, which the bringing of elections home to the peo-

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ple may produce, that may eventuate in their corruption, or their improvement; but most probably in the former; it is the incessant courting their favor for every public employment. An intelligent and high spirited people ought to feel above the low flattery, the servile compliance and often the infamous misrepresentation, that are too inevitably incident to the practice of electioneering. It has grown with the growth of Kentucky at a most fearful rate; and does it not among other mischievous effects, tend to supersede the popular superintendence of its own affairs by tacitly surrendering them to professed candidates? Let discussion take its widest range within the limits of decorum: but let the parties whose qualifications and merits may be the subject, be kept out of the interested, and consequently intemperate participation. The author entertains no great faith in institutions to protect the people against the mischiefs of their own ignorance or vice; and above all, by recognizing different classes of interest, whether of property or rank; the only effectual influence, which can radically ameliorate society is, the diffusion of moral and intellectual cultivation with the protection of honest industry in the enjoyments of its fruits. Still good government is an institution, which affords a reasonable probability for bringing the intelligence and virtue of society into the management of its affairs *consistently with the will* of the people. No *free* government, and therefore generally no *good* one, can protect the people against their own will, however corrupt and misdirected it may be; all then, which the machinery of government can effect, is to check the hasty and rash impulses of the popular sentiment for some short time; till it has had the opportunity to correct itself. In reverencing the ultimate sovereignty of the people, we should, under the influence of a genuine patriotism, abstain most religiously from inciting the people to dispense with these safeguards to the salutary exercise of their authority. Power, let it ever be impressed on the hearts of a free people, is just as susceptible of disregard and injustice to the rights of others in their hands, as in governments of more exclusively individual authority. When so administered, as to forget or to violate the rights of others;

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popular power becomes as rank tyranny and as gross oppression, as at the hands of kings and of princes. Right and justice are founded in distinctions, as eternal as the Almighty Mind which created them; and no power, whether clothed in imperial purple or the more unpretending, though not the less significant insignia of a republic, can consecrate oppression, or lessen the wickedness of injustice. Long may these sober truths protect the American people from corruption by their flatterers, and save them from the enormities, which disgraced the free governments of antiquity, as well as the hideous misnamed republic of modern France.

On the 19th of April the Convention closed their labors, and on the 1st of June, 1792, the political existence of Kentucky, was consummated on an equality with her co-States, that were members of the American confederation. The boundaries of Kentucky were recognized in the act of separation on the part of Virginia, as the same which then separated the District from the residue of the Commonwealth. As these have not, however, been specially mentioned, it may not be improper to state, that on the east, commissioners on the part of the two States interested, on the 14th of October, 1799, established the boundary to commence at the top of the Cumberland mountain, where the Carolina, now the Tennessee line, crosses the same; and pursuing a north-east direction to the north-eastwardly branch of Sandy river to the main west branch and down the same to the Ohio; and on the south, in 1820, Walker's line as run in 1779 and 1780, as far as the Tennessee river, and thence the line run by Alexander and Munsell under the authority of Kentucky to the Mississippi river below New Madrid; on the west, the Mississippi, and on the north, the Ohio river to the beginning, were established.

On the fourth of June, the Governor and Legislature assembled at Lexington; Isaac Shelby having been chosen for the former high office by the college of electors and Alexander S. Bullitt and Robert Breckenridge, both of Jefferson county, were selected as speakers of the two houses; the former of the Senate, the latter of the House of Representatives. On the sixth,

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Governor Shelby met the Legislature in person, as was then usual, in imitation of the ancient practice of the British kings, as well as of the colonial governors. A mode of communication, which however calculated it may be for the display and parade suited to a brilliant monarchy, is most unfit for the business intercourse of a simple and practical government. Under this method the interests of the public were prematurely agitated in replies often surprising, and committing the legislative bodies to the approbation of measures, before they could well be understood, or fairly have come before the minds of the representatives. It was well changed under the Presidency of Thomas Jefferson for the mode of intercourse by message, the same, which had been practiced at all times, upon the business of the current session. In this first communication of a Governor of Kentucky, the importance of establishing both private and public credit was represented, as the most efficient means of promoting the prosperity of the rising Commonwealth. To secure the first, a speedy and impartial administration of justice was recommended; and a scrupulous adherence to all public engagements for the second. Next in importance to this fundamental policy of all well regulated States, that of adjusting land titles was represented as most entitled to the earliest regards of the Legislature.

In organizing the government, Jas. Brown, the brother of John Brown, the venerable and honored statesman of Kentucky, and himself subsequently so distinguished in the highest legislative and diplomatic services of the United States, was appointed Secretary of State, and Geo. Nicholas, Attorney General: our first two Senators in the councils of the Union were John Brown, the first and only member from Kentucky of the old Congress; and John Edwards who shortly afterwards disappeared from public life. An appointment of commissioners for selecting a seat of government, a matter of great jealousy and contention between the people of the opposite sides of the Kentucky river, was then made by the House of Representatives, agreeably to the Constitution, by nominating twenty-one persons, from whom the delegations from the counties of Mercer and Fayette, alternately struck off one, until

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five gentlemen were left; these were Robert Todd, John Edwards, John Allen, Henry Lee and Thomas Kennedy, any three of whom might fix the seat of government. "A majority of the commissioners met soon after their appointment, and fixed on Franfort, as the proper place;" which, most happily for the interests of the State, "required a concurrence of two-thirds of each branch of the legislature to change to any other point." The perfect eligibility of any place as a seat of government, is a subordinate consideration to its permanence; no spot can furnish the accommodations and conveniences of which it might otherwise be capable; and which are so much required at a seat of legislation; when the continuance of the government is held in suspense; and liable to be changed at every gust of caprice or passion. The waste of treasure in public buildings, the injury and destruction to public records, serious as these mischiefs are, diminish in comparison with the paralyzing effects of a fluctuating policy, which works all the practical mischiefs of the grossest perfidy. A state house of stone, sufficiently uncouth, was soon erected at the new seat of government, which was paid for principally, by the proceeds of private contribution; an edifice of brick was erected at the expense of the State for the accommodation of the Governor.

At this session the judiciary was organized, at all times one of the most important departments of government; indeed it is that, which principally brings the force of society into contact with the individual, by affecting his life, his liberty, or his property. The court of Appeals was directed to consist of three judges,* one of whom was to be styled chief justice of Kentucky, and any two of whom were to form a quorum: subordinate to this Supreme court, were county courts likewise created by the Constitution, composed of the justices of the different counties, any two of whom were to constitute "a court of quarter sessions, and any three a county court. The justices were conservators of the peace, and had jurisdiction of all cases of less value than five pounds (equal to sixteen dollars and

* The first judges were Benjamin Sebastian, Caleb Wallace and Harry Innes as Chief Justice; the latter declining the office, George Muter was appointed in his place and Innes was appointed United States' district Judge.

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sixty-six cents) or one thousand pounds of *tobacco*, if a judgment was rendered for less than one half of either, it was final; if for more than fifty shillings, eight dollars and thirty-three cents, or five hundred pounds of tobacco, an appeal lay to the quarter sessions. The county court, a tribunal of great local value, was to hold a monthly session; at which it was to take cognizance of all cases of wills, letters of administration, mills, roads, the appointment of guardians and the settlement of their accounts. In addition to this catalogue of interesting municipal powers, it likewise, without any representative character, had the power of levying certain sums of money upon the respective counties for various objects of expense, such as public buildings, bridges, and the support of the poor. The jurisdiction of the quarter session courts extended to all cases at common law and chancery, excepting criminal cases involving life or limb. The criminal jurisdiction was exercised by one court called the court of oyer and terminer, which was held twice a year by three judges, from whose decision there was neither appeal nor writ of error. This sketch may serve to convey some idea of the earliest judicial system, under the State government; the improvement of which has been one of the most interesting and constant objects of attention in the legislation of the State. The members of the county courts have continued eligible to the legislature, and those of the quarter sessions did till 1794; when they were most properly prevented from thus confounding the different departments of government. It is said the original draft of the law creating the quarter session courts, as furnished by the Attorney General, denominated the members of the court *judges*, which would have excluded them from the legislature. On the ground of this exclusion, the bill was rather strangely returned by the Governor and amended by the legislature, so as to insert justices of the peace. The economy, or more properly the value of money in these times, is really too remarkable to escape notice. The members of Assembly received one dollar per diem and twelve dollars each for the whole session; twenty dollars compensated the presiding officer of each house; fifty

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dollars the clerk, and twelve dollars the sergeant-at-arms; these considerable sums, it has rather sarcastically been observed, were in *full of all demands*. The largest bill seems to have been that of the public printer; well illustrating the scarcity and value of mechanics, by the contrast of their compensation, with that of the first statesmen of Kentucky. It was three hundred and thirty-three dollars and a third. No revenue having yet been collected, the treasurer was directed to borrow money. In connexion with this subject, the revenue system of the State and its treasury arrangement next present themselves. Every hundred acres of land and every slave not exempted by the county court for infirmity of age, was taxed one third of a dollar; every horse, &c., about eleven cents; every head of cattle four cents: each wheel on every coach or chariot one dollar; for every wheel of other riding carriages not used in agriculture two-thirds of a dollar; for every billiard table thirty-three dollars and a third; every ordinary license ten dollars; every retail store, ten dollars. This revenue system was carried into effect by commissioners appointed by the county courts, whose business it was, to take lists of the taxable property; the sheriff was to make the collection from the people, account with the auditor of public accounts for the amount, and pay the same to the treasurer once a year. The treasury department was organized by appointing an Auditor and Treasurer. The former officer held his office during good behavior, and was charged with keeping the public accounts between the State and all other persons or States; he audited the accounts of all civil officers or persons having claims against the Commonwealth, and issued warrants for such sums as are expressly directed "by law to be paid out of the treasury." The treasurer was annually elected by joint ballot of both houses. It is important to observe that this officer was emphatically made a legislative agent, and not an executive one: his duties were as usual with such officers. Within this year the Indians renewed their depredations within eight miles of Frankfort, on Russel's creek, south of Green river, in Madison county and in Nelson.

In consequence of the disasters experienced by the unfortu-

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nate St. Clair, though fully exculpated from all blame by Gen. Washington,* he resigned the command of the mutilated army. The military establishment was then authorized to be increased to 5000 men. At the head of this force Anthony Wayne of high reputation in the revolutionary war, was placed in 1792, with Brigadier Generals Posey and Wilkinson. Such were the indications, that the government had determined to prosecute the Indian war vigorously. Yet there was great division of sentiment on the best mode of pursuing this irregular warfare against the barbarians of North America. Nor was this difference confined to the legislative councils† of the nation: it prevailed with a good deal of obstinacy in Kentucky. Here the desultory incursions, which had marked the military operations of the early settlers, still possessed the hearts of the country. This was natural enough to a people experienced and triumphant in war only, upon a limited scale; but the truth is, the mounted expeditions of the early times, were more chivalric than effective, more brilliant than useful; they were inroads not conquests. In no one instance did they, or could they compel the enemy to a full trial of their strength, much less defeat them, as in the battles of the Maumee and of Tippecanoe. To meet the powerful confederacy of the barbarian tribes aided by a jealous and hostile neighbor, a system of tactics was adopted for the peculiar theatre and enemy, which had developed the military powers of the Great President in the opening of his military career, under the colonial government of Virginia.

The Indians of North America have proved themselves equal to the best light troops in the world, among their own woods and fastnesses. The evidence of this truth has been wofully given by the slaughter, rather than defeat of French, English and American troops with great superiority of numbers and arms, on their part. The alarming losses, which our troops had experienced against the savages from the close of the revolutionary war to the times in question, induced General Washington to have a special military conference on the subject with Gen. Knox, then Secretary at War, and General

* Marshall's Washington, vol. 2, p. 23. † Idem, p. 208, 224, 225.

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Wayne.* The result of this council was the system of tactics observed by this officer in his northwestern campaigns. The principles of this system, as they have never been historically developed, will now be attempted on the authority of a distinguished officer of General Wayne's staff.

The principal features were, 1st, a "facility of forming an order of battle from an order of march, to resist a sudden and unexpected attack from whatever quarter it might come;" 2, "a capacity of forming in line in thick woods; 3d, an easy mode of securing and prolonging the flanks, notwithstanding the line of extreme open order, each file being more than arms length from those on the right and left. All these were essential points in a war with our northwestern Indians;" because no vigilance could guard against an unexpected attack from them in their native woods. Yet these were the scene of operations; and "the object of their tactics is always to turn the flank of their enemy. But by the formation adopted against the Indians, in attempting to turn either flank, they met a succession of fresh troops coming from the rear to extend the line." Upon the "European plan, as well as our own practice of fighting regular troops, the files are so close that the shoulders of the men touch each other. In fighting Indians there was no shock to be given or received, a very open order was therefore attended with two very great advantages; it more than doubled the length of the lines, and in charging, which was an essential part of the system, it gave more facility to get through the obstacles which an action in the woods presented." Such were the principles, which were to govern our troops in their active operations against the enemy; when encamped, "it was always in a hollow square. Within this, all the baggage and cavalry were secured, and sometimes the light infantry and riflemen, for the purpose of making sallies in a night attack. Ramparts of logs were formed around the encampment, solely to *repel* a sudden night attack, until the troops could get under arms. They were not intended for defence in daylight. To defeat Indians by regular troops the *charge* must be relied upon; the fatality

* Gen. Harrison's letter to the author.

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of a contest at long shot with their accurate aim and facility of covering themselves, was mournfully exhibited in the defeats of Braddock and St. Clair. "General Wayne used no patroles, no picket guards.* In Indian warfare they would always be cut off; and if that were not the case they would afford no additional security to the army, as Indians do not require roads to enable them to advance upon an enemy. For the same reason, (that they would be killed or taken) patroles were rejected, and reliance for safety was entirely placed upon keeping the army always ready for action. In connection with this system of constant preparation, there was only a chain of sentinels around the camp, furnished by the camp guards, who were placed within supporting distance."

Such were the military principles adopted in the continuance of the warfare against our Indian foes. There seems to have been no divergent attacks to the right or left of the line of operations, in order to protect the communications with the base of supply at the Ohio. Yet had such expeditions have been reconcilable to other military principles, they would have protected that line from many destructive interruptions.

The plan appears to have been, to make no detachments, so fatal to Harmar and St. Clair; but to preserve the army in unbroken strength. Still accurate information might, it would seem, have authorised incidental expeditions, as they were afterwards adopted under the command of his pupil on the same scene of operations at Mississineway; and by Colonel Johnson's mounted regiment.

About the 6th of November, 1792, Major John Adair, afterwards so distinguished at New Orleans, and elected Governor of the State, in command of "about a hundred Kentucky militia, was attacked by a large body of Indians under Little Turtle, in a camp near Fort St. Clair, one of the forts on the line of operations north of Fort Washington; and after a gallant resistance, was forced to retreat, with the loss of six men killed, the camp equipage and one hundred and forty pack horses.†"

* They are small bodies of men placed at a considerable distance from an army, on the principal avenues of approach to it. They furnish no sentinels, except for their own protection.

† Marshall 2—41.

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The enemy are said to have been repelled several times and as often recovered their advantage, with which they finally withdrew, taking all their booty: they are said to have left seven dead on the field, and to have been seen carrying off several during the action. "Brigadier General Wilkinson, who then commanded the United States' troops in the west, bestowed encomiums on the Major for his good conduct, and on his men for their bravery." Towards the close of the year the death of Colonel John Hardin was ascertained. He had most unaccountably for an officer of such value, (as well as Major Trueman) been invited from his private home by Colonel Wilkinson; through motives of private attachment to Hardin and anxiety to discharge the duty of a peace messenger, (to use the Indian phrase,) in order to prevail on the savages to come on terms of peace. That officers of their worth should have been exposed, contrary to their own excellent judgments, on so hopeless a mission to such perfidious barbarians, is truly lamentable. If messengers must have been sent, why select officers whose services in more important operations were so invaluable? Why not send some such men as Miller, who was employed in the same office by Gen. Wayne? Gen. Washington began his military career on just such a mission, and he was anxious that the attempt should be made. Not for a moment, should the shocking insinuation,* contrary to all probability and evidence be believed, that these officers were purposely sent on their dangerous errand to put them out of military competition with Wilkinson. The natural generosity of Wilkinson, his love of gallant bearing and his devotion to his profession, as well as his actual elevation and superior character, must protect his memory from so cruel an implication. The circumstances of Hardin's death are imperfectly known; he had proceeded on his mission to the Miami towns, accompanied by his interpreter; and arrived at an Indian camp, about a day's journey from where Fort Defiance was afterwards built by Gen. Wayne, on the Maumee; and about the same distance from a town inhabited by Shawanees and Delawares. This officer was well received by the Indians in camp with

* Marshall 2—42.

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their usual respect for messengers of peace; but after having been there some time, five Delawares came from the town; when learning this, the Colonel proposed to go there with them that evening; they refused. Still they seemed friendly and they encamped together that night, in the morning, however, owing to suspicions excited by minute enquiries about the country, more ferocious councils prevailed, and the Colonel was killed; his companion was afterwards murdered on the road to Sandusky. At the same time it must be mentioned in alleviation of this enormity, "that when the news was carried to the Indian town, that a white man with a peace talk had been killed at the camp, it excited great ferment, and that the murderers were much censured."

The depredations of the Indians continued to vex and harass the country, almost in every direction, during 1793. They plundered horses in Logan county, and the mail carrier through the wilderness was killed on Laurel River. On the 1st of April, Morgan's Station, on Slate creek, was captured, and most of the women and children taken prisoners; these, when a pursuit was commenced by a party of militia, were all killed. In an opposite section of the country, a man was killed on the Beech Fork of Salt river; boats descending the Ohio continued to be attacked with the most daring boldness, even at the Eighteen Mile Island, above Louisville, and between that city and the mouth of Salt river.*

These disgusting and wearisome details are preserved to show the insecurity of the country at so late a period. Yet notwithstanding these outrages, the President, in order to counteract the strong impression which had possessed the minds of the people east of the mountains, that their fellow citizens of the west were the aggressors in the contest with the Indians; and that sincere attempts to make peace with them, would be successful, ordered a treaty to be held at Sandusky. In the mean time all hostilities with the Indians pending these negotiations, were necessarily forbade. How hardly and painfully this conduct was felt in Kentucky, need scarcely be dwelled

* Marshall 2—81, 82.

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upon after the recent distressing details. Nor can its necessity be appreciated, without attentively noticing the deep rooted prejudices of the country at large, on the subject of Indian hostilities. They showed themselves in the debates of Congress, and were too much confirmed by the history of the national intercourse with the aborigines in general. Sympathy with the interests of a race of men incompatible with the existence of our agricultural people, seems to have occupied the people east of the mountains, when it had no longer room to operate against themselves. No thought then seemed to exist, that the same causes of inconsistent states of social existence, prevailed on the western side of the mountains, just as they had presented themselves on their eastern side, for the preceding century and a half. Our people would have gladly abided, for the present, with the territorial limit of the Ohio river. This had vainly been said to be "fixed as final,"* at the treaty of Fort Stanwix, in 1768, as the boundary between the red and the white people; or more properly, between the hunters and the agriculturists. But no territorial limit could permanently arrest the ruin of the one race, or the progress of the other. The decree of their fate was passed by natural causes, which no human exertions could counteract.

The commissioners appointed by the President of the United States, now announced, that the Indians would not form a treaty of peace. The sincere and persevering benevolence of the Government was vindicated; and the rest was left to the fate of arms. General Wayne, who had assembled his troops at Fort Washington, received orders early in October, 1793, to commence his march towards the Maumee. In pursuance of his authority, he had called upon the Government of Kentucky for a detachment of mounted volunteers. These, so deep was the dislike, and the want of confidence in regular troops among the militia of Kentucky, after the disasters of Harmar and St.

* "And we desire that one article of this, our agreement, may be, that *none of the provinces* or their people shall attempt to invade it, under color of any *old deeds*, or *other pretences* whatsoever: And that no *further attempts* will be made on our lands, but that this line be considered as *final*." The line was the Ohio river, on the south, by certain specifications, to Wood creek, in the present State of New York.—Extract from the treaty of Fort Stanwix.

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Clair, could not be obtained by volunteering. On the 28th of September, the Governor of Kentucky had been compelled by this reluctance to order a draft from the militia. The necessary re-enforcement was obtained; and by the 24th of October, General Scott, at the head of one thousand mounted men, from Kentucky, reached within four miles of head quarters, then six miles in advance of Fort Jefferson, and eighty miles from the Ohio river.* Here the troops rested for several days. The Indians were now known to be in great force in the neighborhood of the Miami villages, eagerly anticipating another destructive victory over their white enemies. The season was far advanced in that rigorous climate, and the army not too well prepared for the stern and trying conflict with savages, more flushed with confidence of conquest than they had ever been, without more open co-operation of some European force. This was the first campaign the army had prosecuted in the woods; in consideration of these united difficulties, the General-in-chief most prudently determined to suspend his march, and to build Fort Greenville. The regular troops now entered into winter quarters, and the Kentucky militia were dismissed, not unpleasantly, though with renewed confidence in regular forces, owing to the energy and the hardihood displayed by General Wayne.

Early in 1793, the contagion of French attachment manifested itself in the United States, by the establishment of the Democratic Society in Philadelphia, in too close imitation of the disorganizing clubs which had disseminated anarchy and destruction throughout the beautiful kingdom of France. Not that the partialities of our countrymen for Frenchmen, or their sympathy with the fortunes of France, are to be confounded with the crimes against all social order, which deformed the French revolution. Many of these they did not know, and much they did not credit, coming as it did through English channels, a source of information doubly suspicious to our countrymen, at the time, from the hostilities of England against France, and likewise from her exasperating policy towards the

* Marshall 2—84.

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United States. One branch of this course of British measures came home most feelingly to the people of Kentucky, who felt it raising the Indian tomahawk against them and their helpless women and children. Is it then to be wondered at, if amidst these causes of aggravation, the Kentuckians felt keenly against the English, and as warmly for their enemies, the people of France? In addition to this powerful cause of natural excitement, was to be added the no less agitating sentiment of national gratitude for the people who had so signally befriended us in the period of our weakness, and when all the power of Great Britain was brought to bear on these comparatively infant colonies. Many of the revolutionary officers who had removed to Kentucky, as Scott and Hardin, Anderson and Croghan, Shelby and Clark, with numerous followers, had fought side by side with the French in our own armies; and all had fought against the British and their auxiliaries, the Indians. In consequence of this state of public sentiment, Democratic societies were readily established at Georgetown, Paris, and Lexington, on the model of the one at Philadelphia. These societies were particularly opposed to the course of General Washington's administration, in its foreign as well as domestic policy.

In regard to the latter, the society at Lexington came to the following violent resolution upon the subject of the navigation of the Mississippi:* "that the right of the people on the waters of the Mississippi, to the navigation, was undoubted; and that it ought to be *peremptorily* demanded of Spain, by the government of the United States."

In this state of public feeling, the French minister, Genet, about the 1st of November, 1793, sent four persons of the names of La Chaise, Charles Delpeau, Mathurin, and Gignoux, to Kentucky, with orders to engage men in an expedition against New Orleans, and the Spanish possessions. For this purpose they carried with them blank commissions. The Governor was soon afterwards informed by the Secretary of State, of this enterprise, and †"that the special interests of Kentucky would be particularly *committed* by such an attempt, as nothing could be

* Marshall 2—92. †Am. State Paper, 2—36.

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more inauspicious to them than such a movement, at the very moment those interests were under *negociation* between Spain and the United States."

Such however was the excitement of the public mind on the subject of the Mississippi, added to its fevered condition in regard to French politics; that too many persons were ready to embrace those foreign proposals to embroil the peace of the United States. Two of these emissaries had the audacity to address letters to the Governor, informing him in express terms of their intention* "to join the expedition of the Mississippi," and requesting to *be informed* whether he had "positive orders to arrest all citizens inclining to our assistance." To this ignorant and presumptuous letter of Delpeau, Governor Shelby condescended to reply in the words of the Secretary of State, that he had been charged to "take those legal measures necessary to prevent any such enterprise," "to which charge I must pay that attention, which my *present situation* obliges me." These foreign agents proceeded in their piratical attempt from the bosom of a neutral and friendly nation, to raise two thousand men under French authority; and to distribute French commissions among the citizens of Kentucky; to purchase cannon, powder, boats and whatever was deemed necessary for a formidable expedition. In an unguarded moment these insinuating agents of a foreign government, influenced by the same mischievous spirit, that had undermined the peace and independence of so many European states, got the better of the exalted patriotism, and devoted fidelity of General George Rogers Clark; and prevailed upon him to take command of the expedition as† "a Major General in the armies of France, and commander in chief of the revolutionary legions on the Mississippi." Under this ominous description for an American officer, he issued under his own name, proposals "for volunteers for the reduction of the *Spanish forts* on the Mississippi, for opening the trade of that river and giving freedom to its inhabitants." "All persons serving on the expedition, to be entiled to one thousand acres of land, those that engage for one year, will be

*Marshall 2—100, †Marshall 2—103.

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entitled to two thousand; if they serve three years, or during the present war with France, they will have three thousand acres of any *unappropriated* land that may be conquered; the officers in proportion, pay &c. as other French troops; all lawful plunder to be equally divided according to the custom of war; those who serve the expedition will have their choice of receiving their lands, or one dollar per day."

Governor St. Clair intimated to Governor Shelby early in November, that this commission had been given to Clark with other particulars; this communication was followed by one from General Wayne, of January 6th, 1794, enclosing his orders to Major W. Winston, commanding the United States cavalry in Kentucky, which placed that officer and his men under the orders of Governor Shelby, and promised "should more force be wanted, it should not be withheld, upon this interesting occasion, notwithstanding our proximity to the combined force of hostile Indians." After the receipt of these letters Governor Shelby addressed the Secretary of State on the 13th of January, 1794 and after acknowledging the receipt of the information in regard to Clark and the French emissaries, proceeded as follows,* "I have great doubts even if they (General Clark and the Frenchmen) attempt to carry this plan into execution, provided they manage their busines with prudence, whether there is any *legal authority to restrain or to punish* them; at least *before they have actually accomplished it.* For if it is lawful for any one citizen of the State to leave it, it is equally so for any number of them to do it. It is also lawful for them to carry any quantity of provisions, arms and ammunition. And if the act is lawful in itself, there is nothing but the particular intention with which it is done, that can possibly make it unlawful; but I know of no law which inflicts a punishment on intention only; or any criterion by which to decide what would be sufficient evidence of that intention, even if it was a proper subject of legal censure." This communication precluding any effectual interposition on the part of the governor of Kentucky, the President of the United States issued his proclamation on the 24th of March, apprising

*American State Papers, vol. 2 p 39.

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the people of the west, of the unlawful project, and warning them of the consequences of engaging in it. About the same time General Wayne was ordered to establish a strong military post at fort Massac on the Ohio; and to prevent by force if necessary the descent of any hostile party down that river.

The surprise of the President at the latter communication from Gov. Shelby, must have been greatly increased, when he contrasted it with the one received from the same public officer, dated the 5th of October.* In this prior communication the Governor expressed himself as follows: "I think it my duty to take this early opportunity to assure you, that I shall be *particularly attentive to prevent any attempts of that nature* (alluding to the French expedition against Louisiana) from this country. I am well persuaded, at present, none such is in contemplation in this State. The citizens of Kentucky possess too just a sense of the obligations they owe the general government, to embark in any enterprise that would be so injurious to the United States."

Early in November, 1793, the Legislature of the State assembled, but the Governor took no notice, in his address to them, nor in the course of the session, of the French enterprise, communicated to him by the Secretary of State, acknowledged by the French agents concerned in the unlawful enterprise, and which was consummating under his own eyes. But what is more extraordinary, the Governor mentioned nothing of the Spanish negotiation likewise communicated to him at the same time; which was so interesting to Kentucky, and which would have been so well calculated to soothe her excited feelings. Though nothing specific had been mentioned, or could consistently with such measures have been announced; still the great and merited influence of Governor Shelby might well have been more pointedly exerted, to sustain the administration of the illustrious Washington, amidst the perplexities of foreign negotiation, and of domestic disturbance. Not that the Governor should be supposed to have stood alone in his sentiments of French sympathy and Spanish dislike; for they were the fixed sentiments of the West in general; and were ardently cherished in Kentucky by

*American State Papers, vol. 2—27.

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some of her most distinguished citizens. The regret is, that the Governor did not bring the weight of his massy character to rally his countrymen around the standard of the Union, which he had fought so bravely to maintain, and to recall them from their mistaken partialities for a foreign nation. The superseding of Mr. Genet, at the request of the President of the United States, and the subsequent disapproval of his acts by the French general, produced an abandonment of this last and only intrigue of France with the people of Kentucky.

The Secretary of State on the 29th of March, 1794, replied to the Governor's communication, of the 13th of the previous January, at a length, which most properly places it in the appendix. It may be sufficient to mention, that the Secretary endeavors to confute the legal difficulties, which had embarassed the mind of the Governor of Kentucky; he then enters into a sketch of the negotiations at Madrid, respecting the navigation of the Mississippi. From this statement it appeared, that as early as December, '91, the first *verbal* overtures of Spain had been accepted by the President; and Mr. Short had been associated with Mr. Carmichael, the Charge d' Affaires at Madrid, in the negotiation. "For many months have our commissioners been employed," says the Secretary, "in this important affair at Madrid. At this moment they are so employed. The delays, which forms may have created, the events of Europe, and other considerations, which at this season cannot, with propriety, be detailed, dictate a peaceable expectation of the result."

There are however other views, connected with the above transactions, which were entertained by our distinguished and patriotic Governor himself. These, historical justice, no less than the author's deep respect for the great public services of Governor Shelby, impels him to record. He is more eager to do this, because this defence, though in part produced by a motion of Mr. H. Marshall, is totally omitted by him in his History. These views are contained in part in the Governor's message of the 15th of November, 1794,* to the House of Representatives of Kentucky. In this communication made conformably to a

*See Appendix,

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resolution of the House; the Governor reiterates the doubts of his legal authority to comply with the wishes of the General Government. "After the most careful examination of the subject I was," says he, "doubtful whether under the constitution or laws of my country, I possessed powers so extensive as those, which I was called upon to exercise. Thus situated, I thought it advisable to write the letter No. 5,* in which all the information I had received is fully detailed, my doubts as to the extent of my powers carefully stated, and the strongest assurances given, that every legal requisition should, on my part, be punctually complied with." These doubts the Governor considered as confirmed by the passage of an act of Congress on the 5th of June, 1794, entitled "an act in addition to an act, for the punishment of certain crimes against the United States." "From the necessity of passing this law, I infer that my doubts as to the criminality of this proposed enterprise were well founded; and that until the passage of that law, the offence had not been declared, nor the punishment defined."

In an address of Governor Shelby to the Freemen of Kentucky, in July, 1812; just prior to the Gubernatorial election of that eventful period, he expresses himself again on this subject as follows: "The attention of the General Government being thus drawn to the western country, I deemed it a favorable time to make an impression on their minds of the importance of the navigation of the Mississippi, and of the necessity of attending to that subject. On *that account, and with that object*, my letter of the 13th of January, 1794, was calculated, rather to increase than to diminish the apprehensions of the General Government as to the western country. This letter had the effect desired. It drew from the Secretary of State information in relation to the navigation of the Mississippi, and satisfied us that the General Government was in good faith pursuing this object of first importance to the people of Kentucky. The information thus drawn forth quieted the public mind, and restored harmony to the country." The same subject is resumed in a letter of Governor Shelby, to General Martin D.

*Letter of the Governor to the Secretary of State of the 13th January, 1794.

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Hardin of July 1st, 1812. In this letter the Governor remarks, that "there is to be sure some inconsistency in my two letters to the Secretary of State of the United States, and I saw it at the time, but at the date of the last I saw evidently that the whole scheme of La Chaise would fall to the ground without my interference, and that the present moment was a favorable one, while the apprehensions of the President were greatly excited, to express to him what I knew to be the general sentiments of the Kentucky people, relative to the navigation of the Mississippi and the Spanish Government. Those sentiments had often to my knowledge been expressed by way of petition and memorial to the General Government, and to which no assurance, nor any kind of answer had been received; and I feel an entire confidence that my letter of the 13th January, 1794, was the sole cause that produced an explanation by the special commissioner, Colonel James Innes, of the measures that had been pursued by our Government towards obtaining for us the navigation of the Mississippi; and although I felt *some regret* that I had for a moment kept the President uneasy, I was truly gratified to find that our right to the navigation of that river had been well asserted by the President in the negotiations carried on at Madrid, and indeed the minds of every Kentuckian then settled down in quietness, on a subject that had long caused great solicitude after the attempt of *Jay* to cede away the navigation of that river for 25 or 30 years."

In addition to these forcible considerations, stamped with impressive earnestness, it is due to the memory of Governor Shelby to state, that his ideas were fully concurred in by his distinguished Secretary, James Brown. This coincidence of opinion appears from a letter of the Secretary to the Governor, of the 16th of February, 1794. "The information which has reached me since the date of my last letter, has induced me to to accord with you in opinion as to the result of that enterprise; and has fully convinced me that nothing less than a considerable supply of money will enable the promoters of it to effectuate their intentions. I therefore clearly concur with you in the sentiment, that it would be, at present, *unnecessary* to take any

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active measures in the business; and if *unnecessary*, it would certainly be *impolitic* to exercise powers of so questionable a nature as those which the General Government have adopted, and now wish you to exert.

Indeed it appears to me that good policy will justify the Executive of this country, in discovering a certain degree of unwillingness to oppose the progress of an enterprise, which has for its object the free navigation of the Mississippi. In their deliberation on this interesting subject, Congress has uniformly acted under the influence of a local, unjust policy. Instead of consulting the interests of every part of the Union, they were once on the point of sacrificing all the western waters by an unnecessary surrender of their most invaluable right. Although that detestable plot could not be effected, yet our right is suspended and we are deprived of all the advantages which would result from the enjoyment of it. The secrecy with which the late negotiations are veiled, justifies a suspicion that some designs unfriendly to our interests yet exist, and only wait a more favorable moment to be carried into effect. Congress therefore ought to know, through every possible channel, that we are convinced of our wrongs, and conscious of our ability to redress them. Such information might call their attention to our situation, and give our interests a place in their political deliberations. These représentations could not be made to government at a more favorable juncture. Mortified at finding that their conduct towards the powers at war has only served to offend their allies without soothing their enemies—and apprehensive that all their abject submissions may fail in procuring them peace with England and Spain, they may be alarmed at the idea of our detaching ourselves from the Union at so critical a period. I am therefore happy that, whilst you have expressed your devotion to the laws and constitution of the Union, you have reminded the government of what is due to us as a State, and that power ought not to be assumed for the punishment of those whose object is to do what government ought long ago to have done for us." Such is a full and impartial statement of this unhappy difference of opinion, at a most exci-

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ted period of public feeling between the Father of his country, and the pre-eminent Governor of Kentucky.

After this detail from original documents, exhibiting the sentiments of all the high parties concerned in this interesting passage of Kentucky History; the author might well leave the subject to the judgment of every reader without expressing the state of his own mind. Yet he feels a sentiment of disdain at so equivocal a course; and he freely commits his own conclusions to the public decision.

The author thinks the legal difficulties, which embarassed the mind of the Governor, cannot be discredited by any candid judge; were they less founded, than they so forcibly appear, they might still have embarrassed the determination of Governor Shelby. The other point which the Governor makes in his letter to General Hardin, and which is confirmed by the letter of Secretary Brown; namely, an anxiety to develope the intentions of the government of the United States in regard to the navigation of the Mississippi, is more difficult to appreciate at this day. Yet the public mind of the whole western country, was at the times in question, tremblingly alive to this most vital interest. Its anxieties had arisen to the most feverish condition; as has been frequently mentioned; its citizens were ever suspecting a revival of Mr. Jay's fatal proposition, under the vail of secret negotiations. Nor was this the only excitement, which was stimulating the public feelings, all of which enters most strictly into the vindication of the first Shelby administration.

Attachment to republican institutions, so natural in a free people, and gratitude for revolutionary services had consecrated the interests and the plans of France in the hearts of too many of our countrymen, at the expense of their sober judgment, and their duty to their own country. Americans, like too many of the enlightened friends of freedom in England, like Fox and M'Intosh, Erskine and Sheridan, were intoxicated with the triumphs of an imaginary freedom in France. Yet the sacred name of liberty had never been profaned, to sanction more attrocious tyranny, more exorbitant ambition, or more horrible

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crimes than in the republic of France. Yet it was long before the delusion disappeared from the minds of our countrymen, and at this period it was in the zenith of its influence; the prophetic mantle which covered the magnificent Burke, fell upon few, and but late, in the mad career of the misnamed French republic. Mixed with this sentiment of admiration for a people believed to be struggling for their liberty, was a deep indignation, (so reasonable in the citizens of the western country,) at the provoking and oppressive delays of Spanish negotiation. The public patience was exhausted, its jealousies were all alive. In confirmation of this condition of public feeling in Kentucky, the reader is referred to the address of the Democratic Society in Lexington.* Well may this fevered state of public sentiment have, even insensibly extended itself to the Governor of Kentucky, ever distinguished through his long and noble career, for his love of republican institutions, and for his devotion to the interests of his western fellow citizens, so well understood by him. These sentiments seem to show themselves in the Governor's letter to the Secretary of State of the 13th of January; where he says, "much less would I assume a power to exercise it against men, whom I consider as *friends and bretheren*, (meaning the French,) in favor of a man whom I view as an enemy and a tyrant, (meaning the King of Spain.) I shall also feel but little inclination to take an active part in punishing, or restraining any of my fellow citizens for a supposed intention only, to gratify the fears of the minister of a prince, who openly withholds from us an invaluable right, and who secretly instigates against us a most savage and cruel enemy." Still the Governor adds, that "whatever may be my private opinions as a man, as a *friend to liberty, an American citizen, and an inhabitant of the western waters*, I shall at all times hold it as my duty, to perform whatever may be constitutionally required of me as Governor of Kentucky, by the President of the United States." Yet this construction by the author, is not admitted by the Governor himself; still it is believed to be a probable explanation of a state of things, which the highly excited feelings of the times scarcely admitted to be

*See Appendix.

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seen by those under their influence. In this explanation not a shade of censure is intended to be cast upon the motives of Governor Shelby; on the contrary, they are most sincerely believed to have been full to overflowing of zeal, for what he deemed the genuine interests of American freedom, and the prosperity of Kentucky. At the same time the impartial justice of History extorts the remark, that in the instance of the French plot of 1793 and 4, Governor Shelby's zeal was, as the author believes, in common with almost all Kentucky, and too large a portion of the nation, mistaken in its attachment for the French people; and too embittered against the intriguing and procrastinating Spaniards. At this distance of time, however, the attempt may be made to limit the degree of foreign attachment, and enmity, it might have proved utterly vain, to have endeavored to realize it in practice, at the period in question. Nor ought any surprise to be felt, that a Governor of Kentucky should have been carried away by the same tide of sentiment which had swept half the civilized world, and certainly spared no portion of it less than the United States, and especially their western section.

About* the 14th of May, 1794, La Chaise informed the Lexington society, "that unforeseen events had stopped the march of two thousand brave Kentuckians to go, by the strength of their arms take from the Spaniards, despotic usurpers, the *empire of the Mississippi;* insure to their country the navigation of it; *break the chains* of the Americans and their brethren the French; hoist up the flag of liberty in the name of the French republic, and lay the foundation of the prosperity and happiness of two nations situate so, and destined by nature to be but one, the most happy in the universe."

This was a period of intense political excitement throughout Europe, as well as through the United States; and in no portion of the latter did it rise to a higher degree, than among the ardent and excitable people of Kentucky. The adventurous spirit and energetic stamp of a conquering and migrating people, communicate themselves to the general character and are dis-

* Marshall 2—126.

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played in the general deportment. Such has sometimes presented itself, as a probable solution of the overflowing ardor and abounding energy, which are so prominently exhibited in Kentuckians; and which still mark the descendants of that gallant and daring body of men, who conquered the most favorite hunting ground of the Indians. In addition to this, a large body of revolutionary officers and soldiers had settled in Kentucky, and no doubt had, increased the military impulse. With this excitability of character, also preserved in no slight degree in the parent stock of Virginia, the thrilling events of the French revolution, which had arrayed Fox and M'Intosh against Pitt and Burke, impressed themselves on the feelings of Kentucky, with the utmost power. In this way the great moral volcano of France poured its streams of desolating lava on the distant lands of Kentucky. France and Frenchmen were identified with all the high and hallowed sentiments of liberty and national gratitude; and no wonder the effects on all the relations of society, were deep and wide. How mistaken and ill directed, and moreover how ill requited was all this enthusiasm of Americans for French interests, need not, thank God, be now detailed. Its utter overthrow, and with it, all "inveterate antipathies against particular nations, and passionate attachment for others," in the terms of Washington's sacred farewell to his countrymen, are now to be seen in a genuine national pride; which, while it should not be blind to the excellences of other nations, will at all times, in peace and in war, rally round our own country in opposition to any other on the earth.

Under the influence of the national excitement, which then marked Kentucky, in common with the rest of this republic, a numerous and respectable meeting was held in Lexington on the 24th of May, 1794; when resolutions of a most violent character were adopted, expressive of unqualified censure upon the administration of the great Washington, mixing all the difficulties and perplexities attending the Indian war, British outrages and Spanish procrastination, in one mass of condemnation. The virtuous, the patriotic and enlightened Jay was denounced as an enemy to the western country, and finally a convention was

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invited "for the purpose of deliberating on the steps, which will be most expedient for the attainment and security of our just rights."

The military defence was particularly inveighed against, although no government could have exerted itself more affectionately than that of Washington, under the embarassments of so distant and so vulnerable a frontier; with a foreign force stimulating the enemy within the bosom of the country. Yet, when by the light of our own times, the conduct of a war in the same region, in the comparative maturity of the government is compared with that which was carried on under ten-fold embarrassment; the approval of the administration is irresistible. If the government of the United States, with all its strength and efficiency, took three campaigns in 1812 and 1813, to defeat the Indians, what credit does the administration of Washington not deserve in 1794, to have effected the same object in *four* campaigns, two of which only were active ones? The complaints respecting foreign negotiations might be as effectually answered; but it is not material to this history; suffice it to say, the convention could not be brought about with all the powerful incentives, which were applied to inflame the public indignation. The subject of the excise on distilled spirits, next produced its irritations on Kentucky temper; but they never exceeded some hard words, and more tricks upon the public officers. The tumults of Pennsylvania happily did not extend themselves to Kentucky.

CHAPTER XIV.

Wayne's campaign of 1794—Indian peace of Greenville—British Treaty of 1794—Spanish Treaty of 1795—Spanish Negotiations with Judge Sebastian in 1795 and in 1797—First conflict between the court of Appeals and the Legislature.

General Wayne, who was left in head quarters at Greenville, had, in the course of the winter of 1793, re-occupied the battle ground of St. Clair, and erected a fort, which he called Recovery.

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Still the depredations of the Indians continued; and on the 10th of February, Lord Dorchester, the Governor General of Canada, in a speech addressed to several Indian tribes assembled at Quebec, declared to them, that "he* should not be surprised if Great Britan and the United States were at war in the course of the year; and if so a *line must be drawn by the warriors.*" In pursuance of this hostile spirit Governor Simcoee stablished a military post below the rapids of the Maumee, on its northern side, about fifty miles south of Detroit; this flagrant outrage upon our territory was suitably noticed by the government, without obtaining the withdrawal of the insulting garrison; instead of which, it provoked a justification on the part of the British Minister of this encroachment upon a nation at peace. It was indeed a time of insults and aggressions from both France and Great Britian, such, as it is to be trusted, this nation will never again experience. The advance of British forts must no doubt have greatly encouraged the hostilities of the Indians, independent of the actual aids in arms and provisions obtained from the British.

To this must be attributed in some degree an attack in July, upon Fort Recovery, by a large body of Indians, who after an assault for twenty-four hours with small arms, withdrew. By the 26th of July General Scott, accompanied by sixteen hundred Kentucky militia, united with the regular army under Gen. Wayne, of about the same number. The reluctance to co-operate with regular troops had disappeared before the reputation of Wayne, propagated by the Kentucky volunteers in the previous campaign. The army under General Wayne commenced its march to the confluence of the Au Glaize with the Maumee, where the richest and most extensive settlements of the Indians lay; there he attempted a surprise, by ordering two roads to be cut from Greenville to distract the enemy, while he marched by neither. This manœuvre was however defeated by the desertion of a degenerate soldier by the name of Newman†,

*American State Papers vol. 2—65—73,

†It has been conjectured by some officers, that Newman was purposely sent by Wayne as sergeant Champ was by Washington during the revolutionary war. The subsequent unexplained pardon of Newman gives some confirmation to this idea.

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who gave the Indians intelligence of the approach of the army in sufficient time to allow of their evacuating their towns. They were accordingly found deserted; while Wayne prosecuted his march down the northern side of the Maumee. The enemy were now reported, by the scouts, to be encamped in the vicinity of the British fort, at the foot of the Rapids, where the American army directed its march, after having built Fort Deposite, about seven miles from the British garrison. On the 20th of August, the march was resumed, in the order hitherto pursued. After proceeding about five miles, the commanding General was informed by a messenger from Major Price, who led the advance, that he had discovered the enemy; their left resting upon the Maumee, and their right extending an unknown distance into a thick brush-wood. The army was then formed upon the principles previously adopted, to receive the enemy in front in two lines; its right resting on the river, and its left extending into the wood previously mentioned. General Scott was now ordered to repair to Todd's brigade of Kentucky volunteers, which had marched on the extreme left of the army, and with that brigade to turn the extreme right of the enemy, and attack their rear; whilst General Barbee, who, with his brigade had formed the rear guard of the army, was directed to follow the second line of infantry, to be employed as circumstances might require; and the light troops and guards in front of the army, being now driven in by the enemy, to arrest their progress until the lines of infantry were properly formed; Captain Campbell, who commanded the advance of the dragoons, was directed to charge. In the the execution of this order, that gallant officer was killed, and his troop driven upon the infantry, which being at length formed, were ordered to "advance and charge with trailed arms, and rouse the Indians from their coverts, at the point of the bayonet, and when up, to deliver a close and well directed fire on their backs, followed by a brisk charge, so as not to give them time to load again, or to form their lines." "Such was the impetuosity of the charge, by the first line of infantry, that the Indians, Canadian militia and volunteers were driven from all their cov-

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erts, in so short a time, that although every possible exertion was used by General Scott and his detachment of the mounted volunteers, to gain their proper positions, but part could get up in season to participate in the action, the enemy being driven in the course of one hour more than two miles, through the thick woods, already mentioned, by less than one half their number." "The loss of the enemy was more than double that of the Federal army. The woods were strewed for a considerable distance with the dead bodies of Indians and their white auxiliaries, the latter armed with British muskets and bayonets. Brig. General Wilkinson commanded the right wing, and Col. Hamtramck the left; these officers, with the aids Capt. De Butts, T. Lewis, Lieutenant William H. Harrison, and Adjutant General Mill's, were all most generously complimented by the commanding General.* The army remained for three days encamped on the Maumee, in front of the battle-ground, destroying all the houses and fields of grain, including the house and stores "of Col. M'Kee, the British Indian agent, and principal stimulator of the war now existing between the United States and the savages." While the American force was thus encamped, Major Campbell, who commanded the British fort on the Miamis, (as the Maumee was then written,) addressed a letter to Gen. Wayne to know in what light he was to view "such near approaches," "almostwithin the reach of the guns of a post belonging to his majesty, the king of Great Britain." To this insolent demand Wayne replied, that "were you entitled to an answer, the most full and satisfactory was announced to you from the muzzles of my small arms yesterday morning, in the action against hordes of savages in the vicinity of your fort, which terminated gloriously for the American arms." This was followed by several other letters in a tone of proud defiance on the part of the American officer, concluding in a demand in the name of the President of the United States, to withdraw and remove his troops to the nearest post occupied by the British at the peace of 1783. To this demand it was gallantly answered, that "the post would not be abandoned at the summons of any power whatever until orders were received from his superiors, or the fortunes of war

* See General Wayne's *genuine* despatch in the Casket of 1830, p. 116, Philadelphia.

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should oblige him." Here the correspondence terminated; and every thing within view of the fort, and even under the muzzles of the guns, was immediately fired and destroyed. The least retaliation for these insults, would in all probability, have produced the demolition of this audacious intrusion of a foreign post upon our soil in time of peace; the temper of the Kentuckians, at that time so exasperated by British aids to the Indians, was ripe for any extremities; they were however fortunately avoided, more by the prudence of the British officer, than a correspondent sentiment on the part of the American commander. The Indians were shortly afterwards invited to a treaty at Greenville, where they made large cessions of territory to the United States, including all claims south of the Ohio river, and concluded a peace, which was faithfully observed until the war of 1812.

The legislation of the state now presses itself on the attention and in one of its most important bearings, that of the Judiciary; no department of a government of laws, comes home to the firesides and bosoms of the people so dearly as this; nor is there one whose learning, intelligence and purity ought to be alike above a feeling of dependence upon the legislature and of fear of the people, whose rights are deposited in their peaceful guardianship. In the session of 1795, an act passed reciting the burthensome constitution of the court of Appeals, divested it of its original jurisdiction in land cases, and established six district courts; one at Washington in Mason county, a second at Paris, a third at Lexington, a fourth at Franklin, a fifth at Danville and a sixth at Bairdstown. These courts superseded the criminal court of Oyer and Terminer; they were held twice a year by two Judges; their jurisdiction embraced all matters* at common law, or in chancery arising within their districts, except actions of assault and battery, actions for slander, and actions of less value than fifty pounds, "unless in the latter case they were against justices of the peace." Another act of the next session established a court of Quarter Sessions in each county, to be composed of three justices of the peace to be appointed for that purpose: while a third act re-constructed the

*Marshall, vol. 2 p. 55.

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county courts, whose judges, like their judicial brethren of the Quarter Sessions have been repealed out of authority, by repealing the law creating their offices. This legislative control of the judges of courts inferior to the court of Appeals, although the established construction under the constitution of the United States, as well as that of Kentucky, seems unfounded in any principle which will not make all the courts equally the creatures of the legislature. The constitutional description, and the tenure of office, are the same; yet the existence of the judges is made dependent upon the will of the legislature just with the same effect as if the judges held their offices at the pleasure of the legislature. The evasion of the constitutional tenure by repealing the office and thus reaching the officer, who would otherwise be beyond the reach of the legislature, is too inconsitent and too indirect, to be a constitutional argument.

If the personal ability or learning of the judges is insufficient, let them be addressed out of office; but let the independent tenure of judicial authority, so indispensible to equal justice, remain unimpaired. The principle of legislative control over the office, and thus indirectly over the officer, became in the subsequent history of the state, the root of a most embittered and dangerous controversy, respecting its application to the Court of Appeals.

Another branch of legislation, which has occasioned deep interest in the State is that connected with titles to land; which, in every civilized community must possess deep and enduring importance. On this subject, an act passed at the session of 1793, giving "further time to the owners of lands to survey the same, and for returning plats and certificates to the Register's Office." This is the first act of Kentucky supposed to violate the compact between her and Virginia, in regard to land titles, a controversy which has acquired inexpressible importance at every step of its agitation; and has involved the legislatures, the courts and the people in equal concern. The article of the compact supposed to be infringed by this act, expresses "that all private rights and interests of lands, within the said district, derived from the laws of Virginia, prior to such separation, shall

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private rights and interests of lands within the said district, derived from the laws of Virginia, prior to to the separation, shall remain valid and secure under the laws of the proposed state, and shall be determined by the laws now existing in this state," meaning the state of Virginia. The act of Kentucky militating with this article, gives the time of one year from the 1st of January, 1794, to the owners of entries to comply with the requisitions of the same, during which time, no such entry shall be forfeited.

An important law concerning real estate, early passed the legislature of Kentucky. In Virginia, lands had not been subject to execution; they were now including "tenements and hereditaments in possession, reversion or remainder," subjected to this final process. A valuation was, however, to be made, and unless the lands would sell for three fourths of this estimate for ready money, the defendant might replevy the debt for three months.

The civil list of the session is worth recording for its simplicity and economy, virtues which sadly diminish in the progress of government. The governor was to receive £300, or $1000 per annum, to be paid quarter yearly; the judges of the court of Appeals each £200, or $666 66; the judges of the court of Oyer and Terminer £30, or $100; Secretary of State £100, or £333 33; Treasurer, Auditor, and Attorney General the same. The session of 1793 furnished the first law of apportionment of representatives under the constitution; it, however, assigned the representation arbitrarily, without determining any particular ratio. The number of representatives was forty-seven, apportioned as follows: *Bourbon* five, *Clark* two, *Fayette* six, *Green* one, *Hardin* one, *Harrison* one, *Jefferson* two, *Logan* one, *Lincoln* three, *Mercer* three, *Madison* three, *Mason* three, *Nelson* three, *Shelby* one, *Scott* two, *Washington* two, and *Woodford* three.

The population of the State had, at the recent census of 1790, amounted to 73,677, of which 12,430 were slaves. The session of '93 was held at Frankfort, and the public buildings not being ready, the legislature assembled in a large framed house,

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belonging to Major James Love, at the lower end of the present town, on the river bank. The revenues of the state from the 15th of November 1792, to the same date in 1793, amounted to £4,920 or $16,400 00, and the expenditure to £4921 or $16,403 00.

The year 1795 brought about peace with the Indian tribes to the north, at the treaty of Greenville, which, with a similar arrangement with the southern Indians in 1796, completed the tranquillity of the barbarians on our frontiers. These pacific measures, so important to the prosperity of the one party, and the existence of the other, were most essentially promoted by the British treaty concluded on the 19th of November, 1794, and the equally important treaty with Spain, agreed to on the 27th of October, 1795.

In regard to the British treaty, which convulsed this country more than any measure since the revolution; and which required all the weight of General Washington's great and beloved name to give it the force of law; no section of the country was more deeply interested than Kentucky. Yet perhaps in no part of the Union was it more obnoxious. Its whole contest encountered the strong prepossession of the whigs against every thing British; and this feeling seems to have prevailed in greater bitterness among the people of the southern states, (possibly from more intense sufferings in the revolutionary war) than in any other portions of the union. Yet now when the passions that agitated the country so deeply, and spread the roots of party so widely have subsided, the award of sober history must be, that the British treaty was dictated by the soundest interests of this young and growing country. What else saved our infant institutions from the dangerous ordeal of war? What restored the western posts, the pledges of western tranquillity, but this much abused convention? The military establishments of the British on the western frontiers, were to be surrendered before the first day of June, 1796: further than this, Kentucky was not particularly interested; but it is due to the reputation of the immortal Father of his country, and the statesmen of Kentucky who supported his administration in this obnoxious measure, to

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mention that Mr. Jay informed General Washington in a private letter,* that "to do more was impossible, further concessions on the part of Great Britain, cannot, in my opinion, be obtained;" he also added,† "the confidence reposed in your personal character was visible and useful throughout the negotiations." Happy, most happy was it for the new union and young institutions of these states, that they were allowed by this treaty, time sufficient to obtain root; and fortify themselves in the national affections.

The other foreign treaty mentioned above, may well be connected here, for its important bearing on the limits, the trade and the peace of Kentucky, though negotiated at a subsequent period. To have a clear view of this negotiation it will be necessary to revert to the difficulties and obstacles opposed by Spain to our western limits and navigation, at the earliest steps of our intercourse with her as an independent power.

It will be recollected how strenuous and artful were the attempts of both the branches of the house of Bourbon, to prevent the aggrandizement of these states by a liberal boundary, and the navigation of the Mississippi. By the stern and uncompromising patriotism of John Jay, and the liberal policy of the British government, these diplomatic intrigues were defeated, as far as related to the treaty of peace with Great Britain; but they were long and artfully renewed by Spain on her own account. One branch of these diplomatic machinations§ has been already noticed in the fruitless overtures of Don Gardoqui, through the Hon. John Brown, then a member of the old Congress, to his friends in Kentucky, and to the convention of December 1787. It now remains to pursue this most persevering of the foreign intigues which were aimed at the independence and the freedom of Kentucky. The new government of the United States, among its earliest negotiations abroad, adopted measures for settling the subjects of difference between this country and Spain. These attempts were met by the latter country with alternate encouragement and neglect, as her affairs with France and Great Britain promised a continuance of peace, or threatened to involve her in

*Jay's Life, vol. 2, p. 235. †Marshall's Washington, vol. 2, p. 260, 2d edition.
§American State papers, vol. 10, p. 120.

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the mortal strife, which was desolating the centre of Europe. Our Spanish relations continued in this condition until 1794, when on the intimation of the Spanish commissioners, Messrs. Viar and Jaudenes, in this country, President Washington determined to send Mr. Thomas Pinckney, our minister at London, to Madrid, to conclude a treaty at that city. The minister arrived there about the last of June, 1795; but did not conclude his negotiations until after a long appendix to the tantalizing labors of fifteen years, on the 27th of October of the same year. The purport of this treaty acknowledged our southern limits to the northernmost part of the thirty-first degree of north latitude; our western, to the middle of the Mississippi, its navigation to the sea, with a right of deposit at New Orleans for our produce, during three years. Yet amidst these fair prospects of arranging all our differences at Madrid, an insidious under plot was formed at New Orleans.*

In July, 1795, Governor Carondelet dispatched Thomas Power to Kentucky, with a letter to Benjamin Sebastian, then a judge of our court of Appeals. In this communication he declares, that the "*confidence reposed* in you by my predecessor, Brigadier General Miro, and your *former correspondence*, have induced me to make a communication to you highly interesting to the country in which you live, and to Louisiana." He then mentions that the king of Spain was "willing to open the navigation of the Mississippi to the western country, and desirous to establish certain regulations, reciprocally benificial to the commerce of both countries." To effect these objects, judge Sebastian was expected, the Governor says, "to procure agents to be chosen and fully empowered by the people of your country, to negotiate with Colonel Gayaso on the subject, at New Madrid, whom I shall send there in October next, properly authorized for the purpose, with directions to continue at the place or its vicinity, until the arrival of your agents." "Some time in November or early in December of this year, judge Innes and William Murray received a letter from judge Sebastian requesting them to meet him at Colonel Nicholas' house in Mercer county, on

*Journal H. Representatives, 1806, and Wilkinson's memoirs, vol. 2. Appendicks 5 and 45.

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business of importance, which he had to communicate concerning them all. The gentlemen addressed, went as desired, to Colonel Nicholas', and met judge Sebastian there, who submitted the letter quoted above; some deliberation ensued, which resulted in the unanimous opinion of all the gentlemen assembled, that judge Sebastian should meet Colonel Gayaso, to ascertain the real views of the Spanish government in these overtures. The judge accordingly descended the Ohio, and met the Spanish agent at the mouth of the river: in consequence of the severity of the weather, the gentlemen agreed to go to New Madrid. Here a commercial agreement was partially approved by Sebastian; but a difference of opinion occurring between the negotiators, whether any imposts, instead of a duty of four per cent. (it had been six per cent. on imports, and as much on exports,) should be exacted upon importations into New Orleans, by the way of the river; the negotiators repaired to the metropolis, in order to submit the difference of opinion to the Governor. This officer, upon learning the nature of the difference between the gentlemen acting in this treacherous, and on the American side, most insidious negotiation, readily consented to gratify the Kentucky envoy. It was deferred, on account of some pressing business. A few days after this interview, the Spanish Governor sent for judge Sebastian, and informed him that a courier had arrived from Havanna with the intelligence, that a treaty had been signed between the United States and Spain, which put an end to the business between them. Judge Sebastian, after vainly urging the Spanish Governor to close this sub-negotiation, in the expectation that the treaty would not be ratified, returned to Kentucky by the Atlantic ports.

Several reflections necessarily arise out of this summary of the negotiation of 1795: which was preserved secret from the government of Kentucky, until *voluntarily* disclosed by judge Innes, in 1806, before a committee of the legislature. The first remark that suggests itself on the face of these documents is, that judge Sebastian had been connected with the Spanish government before this time; since Governor Carondelet refers to the confidence reposed in him by his predecessor. To what

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extent, and how long, no information exists within the command of the author, although he has attempted to investigate the earliest ramifications of a plot, now only interesting for its historical curiosity, and not as an engine of party ambition. This negotiation, though terminated so abruptly by Carondelet, contrary to the urgent representations of Sebastian, was again renewed by the former officer in 1797; while the territorial line was marking between the United States and Spain, on the south. It was again effected through the agency of Messrs. Power and Sebastian, and in a way to endanger the union and peace of these states more flagrantly and openly, than on the former more covert attempt.

In the summer of 1797, Thomas Power again arrived at Louisville, as the agent of the Governor of Louisiana, and immediately communicated a letter to Sebastian, desiring him to lay his proposals before Messrs. Innes, Nicholas, and Murray. These proposals were no less than to withdraw from the federal union, and to form "a government wholly unconnected with that of the Atlantic States." To aid these nefarious purposes, in the face of a solemn treaty recently negotiated, and to compensate those who should consign themselves to infamy by assisting a foreign power to dissolve the American union; and to convert its free republican states into dependencies on the arbitrary and jealous government of Spain, orders for one, or even two hundred thousand dollars, "on the royal treasury of New Orleans," were offered; or "if *more convenient*, these sums were to be conveyed at the expense of his Catholic Majesty into this country," and held at the disposal of those, who should degrade themselves into Spanish conspirators. Fort Massac was pointed out as an object proper to be seized at the first declaration of independence; and, "the troops of the new government," it was promised, "should be furnished," without loss of time, "with 20 field pieces, with their carriages, and every necessary appendage, including powder, balls, &c., together with a number of small arms and ammunition, sufficient to equip the troops which it should be judged expedient to raise." The compensation for these free offers of money and arms, independent of weakening the United

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States, was to be obtained in the extension of the northern boundary of the possessions to which Spain had so pertinaciously clung; and which she now so desperately, and for the last time, endeavored so treacherously to retain. The northern boundary on this side of the Mississippi was to be the Yazoo, as established by the British government when in possession of the Floridas; and which was, by a secret article in the treaty of peace, retained, as the boundary between the United States and Floridas, should Great Britain recover them from Spain. Eager indeed, must Spain have been to obtain this insignificant addition to her boundary, when she could break in upon her jealous exclusion of foreigners from her American possessions; and promise the Kentuckians, "if they would declare themselves independent of the federal government, and establish one of their own, to grant them privileges far more extensive, give them a decided preference over the Atlantic States, in her commercial connections with them; and place them in a situation infinitely more advantageous, in every point of view, than that in which they would find themselves, were the treaty (meaning the treaty between the United States and Spain of '95) to be carried into effect." Such were the powerful temptations presented by the Spanish government of Louisiana, to some of the leading men of Kentucky, in order to seduce them into a dependency of Spain. These offers were entertained too gravely, and rejected with too much tameness for the honor of Kentucky patriotism, as will appear from the following detail given by judge Innes to the legislative committee previously mentioned.

After receiving the above communications from Power, Sebastian visited judge Innes, at his seat near Frankfort, and laid them before him. The judge immediately observed, "that it was a dangerous project and ought not to be countenanced; as the western people had now obtained the navigation of the Mississippi, by which all their wishes were gratified. Mr. Sebastian concurred in sentiment, *after*, it must be observed, this explicit declaration of judge Innes, who seems to have given tone to the whole transaction. Still as Power desired an answer in writing, Sebastian prevailed on Innes to see Colonel Nicholas;

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saying, "whatever" they "did, he would concur in." In a few days afterwards, Colonel Nicholas was seen by the judge, at Lexington, who agreed in opinion with Innes, that the proposal "ought to be rejected." The Colonel accordingly wrote an answer* to Power's communication, which unequivocally declared they "would *not* be concerned in any attempt to separate the western country from the United States; that whatever part they might at any time be induced to take in the politics of their country, that her welfare would be their only inducement, and that they would never receive any pecuniary or other reward for any personal exertions made by them to promote that welfare." They added, "that they flattered themselves, that every thing concerning the important business of the navigation of the Mississippi, would be set right by the governments of the two nations; but if this should not be the case, it appeared to them, that it must be the policy of Spain to encourage by every possible means the free intercourse with the inhabitants of the western country; as this will be the most efficient means to conciliate their good will, and to obtain without hazard, and at reduced prices, those supplies which are indispensably necessary to the Spanish government, and its subjects." This reply was forwarded to Mr. Sebastian, and communicated by him to Mr. Power.

This transaction must be pronounced a dangerous tampering with a foreign power, and contrary to the allegiance of American citizens. Yet the whole tenor of the conduct of Messrs. Innes and Nicholas cannot justify the slightest suspicion of their fidelity to the union of the American States, or indifference to their liberties. Their character for faithful, devoted friends to the freedom and happiness of their country, had ever stood high and unimpaired in the confidence of their fellow citizens. It is likewise due to the virtues of Judge Innes, to declare, that in all the relations of private life, no man was dearer or more idolized by the witnesses of his mild, upright, and benevolent character. His† public career in this country, amidst its earliest difficulties, had always been one of high trust and confi-

* Dated Lexington, Sept. 4, 1797. Rep. Journal, 1806.
† D. Clark's letter to Judge Innes. Palladium, April 7, 1808.

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dence, under all the changes of government: he had early been appointed judge of the Virginia district court, then attorney general, judge of the United States district court for Kentucky; a member of the board of war for the western country, and president of our first college of electors. In all these responsible capacities, the conduct of judge Innes was without reproach, and raised him, most deservedly, high in the public esteem, and received the repeated thanks of General Washington for the discharge of high trusts. Colonel Nicholas has left the reputation of an exalted and patriotic statesman In the convention of Virginia, assembled to decide upon the ratification of the present constitution of the United States, he took a prominent and influential part along side such illustrious worthies as Wythe, Madison, and Governor Randolph. In the opposition to the administration of the elder Adams, he bore an ardent share, as exhibited in his celebrated letter to a Virginia friend on the alien law.

In regard to Mr. Sebastian, the other agent in this unhappy business, much more is known of his abilities, commanding address, and most courteous, dignified manners, than his devotion to popular government. He had, however, received a judgeship in the Court of Appeals, at its organization, in 1792. The most probable construction of this conference seems to be, that Mr. Sebastian was the corrupt instrument of Governor Carondelet, and that he perverted his acknowledged abilities and intimacy with judge Innes, to swerve him from the direct and open path of public duty, by listening to proposals from a foreign government, at once derogatory to his duty as a public officer of the laws, and his honor as a faithful citizen. Overpowering indignation should have flashed Sebastian's own abandonment of his duty, as one of the supreme judges of Kentucky, home to his conscience, and instantaneous denunciation to the constituted authorities, should, at all hazards, have exposed his treachery to his government.

Thus might the commonwealth have been shielded from harboring a traitor and a Spanish pensioner on the highest seats in her temple of justice; and at the same time it would

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have protected the fame of himself and Col. Nicholas from the blot of private citizens listening to plans of a foreign Government, destructive to the peace and honor of their country. Yet the author is not unaware of the difficulty of denouncing friends, even when their conduct is most disapproved; but the merit is enhanced by the difficulty, and duty ought to be superior to personal attachment.

In this Spanish conspiracy, there are three stages and correspondent degrees of condemnation. The first existed in 1787, when Don Gardoqui communicated his overtures to the people of Kentucky, to establish a government independent of the rest of the confederacy; this, under the ominous and disgraceful condition of the existing government, might have been laudably entertained by Kentucky patriots. The second happened in 1795, under circumstances of accumulated trial and disappointment to the fondest and most indispensable hopes of western prosperity; at this time, the Spanish propositions, whatever ultimate views were concealed under them, only aimed at an irregular, and so far unjustifiable agreement of private citizens with a foreign government, for the regulation of western trade. This proposal, if it had have been consummated, would, however, have amounted to superseding the regular operations of the general government in the western commerce; and would have granted exclusive commercial favors to the parties in this agreement, inconsistent with the equal constitutional rights of the citizens of a common country. It would, moreover, have been introductive of a foreign influence, dangerous to the liberty and peace of the nation. But the third stage of this business, after ten years interrupted communications, was the most indefensible of all; it was a treacherous and undisguised attempt of Spain to dissever this country, in the face of her recent treaty, and inconsistent with every thing like the good faith which is represented as characteristic of Castilian honor. This intrigue of the provincial authorities, in Spanish Louisiana, is no doubt to be traced to European politics.

On* the 19th of August, 1796, France and Spain concluded

* Pitkin's United States, 2 vol.—page 484-485.

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a treaty of alliance, offensive and defensive, guarantieing all the territories they possessed or should possess. "Soon after this, Spain complained to the American government, that the British treaty had sacrificed her interests, as well as those of France—particularly in abandoning the principle, that free ships make free goods—and by enlarging the list of contraband; and she made this a ground for delaying the delivery of the posts on the Misssissippi, and running the line according to the treaty of 1795." In this remonstrance, Spain seems to have been influenced by a wish to maintain the interests of France in regard to the Floridas and Louisiana, which Mr. Munroe mentions, were expected to be obtained by the French government; "as well as from an expectation that the western people might still be induced to separate themselves from their Atlantic brethren." Such expectations might well be entertained from the exertions of her agents in the United States from 1787 to 1797.

While Sebastian was procuring the answer of Messrs. Innes and Nicholas to the propositions of the Spanish Governor of Louisiana, Power proceeded to the head-quarters of Wilkinson, then at Detroit, with a letter of remonstrance from Carondelet, against taking possession of the military posts on the Mississippi, "until it should be ascertained whether, before delivery they were to be dismantled." This was his ostensible object, his real one has been seen by his communications with Sebastian, and by his instructions from the Spanish Governor. Power delivered his letter to Wilkinson, but without effecting any delay, on his part, in the execution of his duty; and the former was, contrary to his remonstrances, compelled to return by way of Vincennes to Fort Massac, under the escort of Captain Shaumburg of the American army. The Governor of the north-western territory had orders from the government of the United States, (which had got information of this insidious mission,) to arrest Power and send him to Philadelphia. Thus terminated the repeated attempts of the Spanish Government to wrest the western country from the Union, after she had been frustrated in the united efforts of both

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branches of the House of Bourbon, to exclude these young and thriving states from the Mississippi, at the peace of Paris, in 1782.

It is now necessary to retrace the course of events, after the first propositions of Power, which have been narrated beyond the current time, in order to preserve them unbroken. On the assembly of the legislature, in 1795, General Adair introduced several resolutions expressive of the sense of the country in regard to the navigation of the Mississippi, the delivery of the western posts, and the duty on distilled spirits. On the failure of the government of the United States to obtain the two former objects, it was declared "the duty of the Kentucky people to use every necessary exertion, on their part, in concert with, and to render effectual any other measures which may be adopted by the general government for obtaining these interesting objects." The resolutions passed both houses; this cordial disposition towards the government of the United States was farther manifested by the selection of Mr. Humphrey Marshall, a sagacious statesman, and devoted friend to the Washington administration, as a senator of the United States, in opposition to the brilliant powers of John Breckenridge.

At this session an attempt was made to remove George Muter and Benjamin Sebastian from the bench of the court of Appeals, by an address of two thirds of hoth houses of the legislature. The cause of this delicate interference with a high judicial tribunal, arose out of an opinion and decree of the court of Appeals, on the subject of claims under certificates issued by the commissioners for settlements and preemptions, in the case of Kenton against McConnell. No court could be invested with higher jurisdiction, for their duration, than these tribunals appointed to determine the claims of the settlers to the lands assigned them by the benevolent policy of Virginia, in consideration of *actual settlement* or *improvement* in the country amidst its dangers and hardships. Such meritorious titles must naturally have been regarded with the fondest affection; won as they had been at the hazard of every thing dear to man. When, therefore, the

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decisions of a court, which were made final, where not caveated by the land law of 1779, creating them; and whose conclusive character had been decided by the old District court, were to be opened to all the perilous uncertainty, vexation, and expense of legal controversy; it was not at all strange, that the people and the legislature should be agitated. A memorial was laid before the legislature, which brought the matter regularly before that body. The House of Representatives determined to summon the two judges before them. This was done, and a copy of the memorial annexed to the summons was served on the two obnoxious judges; Wallace, the third judge, having objected to the decree. The former gentlemen addressed the Speaker of the House, informing him, that they could find no charge against them, that they could or ought to answer; that the legality of an adjudication of the court of Appeals, or an opinion of any judge thereof, in any cause, could not be properly or constitutionally examinable by a single branch of the legislature: and they protested against a legislative revision of judicial decisions. But they said, justice to the judge, and to the independence of the court, demanded that they should be proceeded against in the manner pointed out in the constitution, in which mode they felt themselves ready to answer any specific charge. The House interpreted this letter into a refusal to appear before it, and proceeded to act upon a resolution, which had been laid upon the table previous to the response of the judges, reciting the illegality and prejudicial character of the decision; it alleged, that "the opinion and decree are subversive of the plainest principles of law and justice, and involve in their consequences, the distress and ruin of many of our innocent and meritorious citizens." The resolution then goes on to allege that the judges "must have done so, either from undue influence or want of judgment; as said decree and opinion contravene the decisions of the court of commissioners, who were authorised to adjust and settle under the said recited act, (meaning the Virginia land act of 1779,) and also contradict a former decision of the late Supreme court for the district of Kentucky, on a similar point—whence arises a well ground-

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ed apprehension that the said George Muter, and Benjamin Sebastian are altogether destitute of that judgment, integrity, and firmness, which are essential in every judge; but more especially in judges of the Supreme court; and that there is no security for property so long as the said George Muter and Benjamin Sebastian continue as judges of the court of Appeals." The House, then, in consequence of these recitals, and their power to address the Governor to remove any judge for any reasonable cause, which should not be sufficient ground for impeachment, determined, by a majority of three votes, that this address ought to be made. The subject, however, was resumed in the Senate, and a resolution, censuring the judges for a decision, which the resolution asserted, "from what appears at this time, proceeded from a want of a proper knowledge of law, or some impure motives, that appear to discover a want of integrity," passed by a majority of one vote. This was most unconstitutionally transmitted to the other House for its action, when the question had fallen from a want of the constitutional majority of two-thirds. It passed by the same majority, as the first resolution introduced on this subject into the House.

This is, it is believed, the earliest dispute between the Legislative and Judicial departments of the state government; which at a more recent period appeared to threaten the commonwealth, with anarchy and confusion. Nor ought the occasion to pass without remarking, that, however correct the legal principles contended for by the Legislature may be, and indeed they appear to be very manifest; still there is a system of official intimidation, and overawing, evidenced by the legislative proceedings, after constitutional majorities could not be obtained, which is utterly inconsistent with the constitutional rights of the Judiciary, and which, in a popular excitable government like ours, is calculated to overthrow all the barriers against tyranny and unlawful violence, at the feet of the legislature. The hold which the members of this body so justly possess, on the affections of their neighbors and friends, with whose bosoms

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they are in such constant and familiar intercourse; should at the same time subject its steps to the vigilant scrutiny of the community; that they do not pervert the public confidence to the purposes of individual passions, at the expense of the public liberties on interests. The judges are said to have published "a clamorous appeal to the people in a pamphlet of thirty pages," which the author has not been able to procure. The remark proceeds from a writer, who, with his acknowledged abilities, bears his resentments too keenly, to always see the injustice he commits against his enemies. The overweening influence, which Colonel George Nicholas is alledged to have possessed over the court, excited great jealousy in the public mind; nor was this suspicion lessened, by his being counsel for McConnel, in this agitated case.

At the subsequent term, judge Muter joined judge Wallace, in an opinion favorable to Kenton; and a decree directly the reverse of the former one, was made by the court; Sebastian adhering to his former sentiments. Thus terminated the first controversy between the court of Appeals and the legislature of Kentucky, in the triumph of the latter, though it is firmly believed, in a righteous cause. Not that any doubt exists as to the constitutional power of the legislature to address the executive for the removal of a judge for gross misconception of his duties, in the misunderstanding, or misapplication of the laws; for this incapacity is one of those very "reasonable causes," which is presupposed by the constitution in giving a legislative control in addition to the power of impeachment. This latter check is presumed to be intended to meet the moral delinquency of its objects, and not the involuntary, though mischievous exertions of their powers.

At this session an act was passed disqualifying sheriffs and their deputies from sitting in either branch of the legislature, until one year after they shall have made their collections of the public revenue, paid them into the public treasury, and obtained a quietus from the auditor. The

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constitutionality of this law creating qualifications for members of the legislature, in addition to those enacted by the constitution, may well be doubted; the same objection cannot be made to the disqualification of Quarter Session Justices, which likewise took place at the same session. This was effected by vacating the seats of twelve persons, who had been elected to the House of Representatives. At this session was communicated by the Governor, the correspondence which he had held with Colonel James Innes, the special messenger employed by the President of the United States, on the interesting subject of the negotiations with Spain respecting the navigation of the Mississippi. "This corespondence had taken place during the preceding January, soon after the adjournment of the body for which it was intended." It is to be regreted that Governor Shelby should not have felt himself at liberty, to have laid these communications before the public, in order to tranquilize their apprehensions and suspicions. The movements of Colonel Innes upon a mission of so much importance to the public peace, and which involved the anxious feelings of the western country to so intense a degree, seem utterly inexplicable at this day. *The Senate of the United States, after resolving that "on the negotiation now carrying on at Madrid, between the United States and Spain, the right of the former to the free navigation of the Mississippi is well asserted and demonstrated, and their claim to its enjoyment is pursued with all the assiduity and firmness, which the nature of the subject demands," had requested "that the President of the United States, would communicate to the Excutive of Kentucky, such part of the existing negotiation between the United States and Spain, relative to this subject as he may deem advisable, and consistent with the course of the negotiation." A similar vote of approbation passed the House of Representatives. General Washington had, however, two months before the request of the Senate communicated the course

*Marshall's Washington, 2d vol. 333, 2d edition.

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of the government on this exciting matter. When such abundant evidence is found in the proceedings of the government, to shew the anxiety and exertions of the Washington administration, to promote and secure the western interests; it is painful to reflect on the little credit it received in the public mind of Kentucky, for this enlarged and parental policy. It is to be apprehended, that there had been too much familiarity with the idea of righting themselves without the aid, if not in defiance of their own government; to have allowed a fair construction to be placed upon the measures of the general government. Indeed it is not to be concealed, that Kentucky was a violent anti-federal State from the first proposition of the glorious system of government, which has advanced this country to such heights of happiness and renown. She had in the excess of her democratic prejudices, refused her sanction to the new frame of government, and she was identified with the opposition to all the leading measures of the Washington administration. The election of Humphrey Marshall, and his votes were, it is believed, the only exceptions to this temper; and now instructions were brought forward, to direct him distinctly from his colleague, in his vote upon the British treaty, which had received the advice and consent of the Senate, to a conditional notification during the preceding summer. Subsequently, however, the individual instructions to Senator Marshall, were amended by inserting the words Senators, in conformity to all propriety and official decorum. The treaty, however, did not again come before the Senate of the United States, owing to the ready acceptance of the exception proposed by the American government.

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CHAPTER XV.

Land Laws of Kentucky—Dissatisfaction with the Constitution of 1799—Gov. Garrard—John Adams, President of the United States—Occupying claimant law and controversy—Seven years' limitation law.

Another branch of perplexing legislation presented itself this session in the vacant lands of the commonwealth southwest of Green river, that were ordered to be sold on a credit which created a debt from her citizens, embarrassing to the government of Kentucky as long as it existed. The first act secured to each housekeeper a pre-emptive right to purchase his land at thirty dollars per hundred acres; the fee simple to be withheld until the money was paid. These easy and tempting terms rapidly attracted a numerous population from other parts of the state to this section of it, where lands were to be had at thirty cents per acre. These are declared to have been worth from two to four dollars for that quantity. Such tampering with public property, contrary to all mercantile principles of supply and demand, and laying aside all the wholesome control of commercial competition, necessarily gave rise to great land speculations, and the arts and impositions which invariably follow in the train of all such excitements to the cupidity of the community. Still, as if these terms were not favorable enough, in the year 1797, another act passed, allowing from one to two hundred acres to all who should settle in this section of the state before the 1st of July, 1798, reside one year and tend two acres of corn within a fence. The prices were raised from thirty dollars to sixty per hundred acres of first rate land, and forty dollars per hundred acres of second rate land. But now no *first* rate lands were to be found for the benefit of the commonwealth, however abundantly they might reward private settlers. The land was to be forfeited, if it was not paid for within a year from the date of the commissioners' certificate; but how could this forfeiture be exacted by the commonwealth against a large and valuable body of her citizens? The very idea is absurd under

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a popular government, and it may well be doubted, whether the commonwealth deserved to collect debts, which she had by her imprudent and improvident legislation tempted her people to contract without any regard to their means of discharging them. If it were good policy to force the population of the commonwealth beyond the natural or efficient demands of her citizens; that is, before their ability to pay what, on free competition, should have proved a fair equivalent for the public domain; better, ten thousand times better would it have been, to have given the lands gratuitously to actual settlers, than to have tempted the creation of a body of debtors to the state, possessing a large section of the commonwealth, and necessarily thrown into conflict with the interests of its powerful but unwieldly creditor. But in truth, there is no doubt that the domain of the State in the section under notice, has been most improvidently wasted. Sound communities are not to be created by such forced bounties and legislative whims, in defiance of the natural laws of society, prior and paramount to the laws of men. Be cause a legislative body finds itself in possession of a great treasure which they are bound to administer for the benefit of society, is it fair and just that they should give it away on the slightest conditions to those who might want it? Such a scheme may, at a superficial glance, appear to be recommended by a noble benevolence and humanity, but on a closer examination it will be found only deceptive. Could such a distribution of lands return like the Jewish jubilees every fifty years, it would bring along with it the same periodical derangement of the ordinary prices of regular industry, of land and of wages, injuring the people by an improvement of the condition of one portion, at the expense of another. To be sensible that these ideas are neither strained nor extravagant, let the effect of these almost gratuitous distributions of land be calculated, upon its value in the older settlements of the state; just as much as the price was artificially depressed in the southwest, it must have been lowered in the northeast; and what was added in one section of the commonwealth, was nearly subtracted in another by the arbitrary glutting of the land market, without any regard to the

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principles of buying and selling, which govern private property. These should, for the public good, have governed the management of the valuable domain, now almost entirely alienated from the state. The act of this year began the career of annual indulgence or relief, which was trod through all the mazes of legislative quackery;* in January, 1798, an act of indulgence, or in other words, the Green river bill passed; in November session, 1798, the whole debt was divided into four equal annual instalments at lawful interest, except the debts of those who claimed under the first act on this subject, which were required to be paid in six months. This act was amended in 1799, and in eleven days afterwards it received a supplementary act: in 1800 another act of indulgence passed, and nine days after was amended. By a third act of this session, nine years were given to the purchasers of the public lands, and the interest was reduced to five per cent.; in addition to this, every person over eighteen years of age, might acquire a right to four hundred acres, at twenty dollars per hundred acres, to include his settlement, which was to be made before his claim could be allowed. The county courts were then vested with the power of granting the claims, instead of the more cumbrous and less expeditious commissioners. The responsibility was now less than ever; fictitious purchasers were as acceptable as real, and the commonwealth was again all agog with land jobbing. Now acts of relief were prayed against the mistakes of the county courts; till after the usual annual protractions of the land debt, its payment was, in 1806, divided into twelve annual instalments of principal and interest; the first instalment to be paid on or before the 1st of December, 1806. Nor ought the commonwealth to be ungrateful that any time was appointed for the payment of this old unconscionable debt of a great land holder, against its poor private purchasers. Indeed it would seem matter of public admiration and gratitude, that the debtors of the commonwealth condescended to promise either principal or interest, on this side of eternity.

This strain of remark is certainly indulged in no unfriendly.

* See Marshall 2—178, for a full analysis of this system.

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feeling to the southwestern section of the state, now so honorable and flourishing a portion of the commonwealth; but solely with a faint hope of exposing the mischievous and corrupting tendency of legislation, when it transcends the boundaries of experience, and the eternal principles of political justice. The injury to the government, though gross in the waste of its treasures, was inconsiderable, when compared to the corruption of public morals and the derangement of regular, efficient industry, by these land bounties and distributions. They kindled the same deleterious speculative, spirit, which the rise of stocks or any other powerful temptations to the avaricious passions of society, have ever occasioned. They would produce the same effects in any community, that they did in Kentucky, with those who rushed from other states to enjoy her misjudged wastefulness. Had this great landed estate been sold out upon any reasonable conformity to current value, tested as in the sales of the United States' lands, by public competition, the disposition would have been uncensurable. True it is, large accessions were made to the productive population of one portion of the state, and as large transfers from other parts of the commonwealth; but this increase might have been effected more soundly and more productively to the state, by less hurried and hot-bed measures. In this last arrangement, Mr. John Pope lent the efficient aid of his excellent mind, in these healing measures, which immediately procured something like $200,000 from the small purchasers; and in a few years the payments amounted to $700,000. Thus has been terminated a mischievous floating interest, ready to be attached to any project which could enlist friends sufficient to effect its own favourite and paramount policy of relief; and the counsels of the commonwealth were relieved from the odious incubus of a debtor interest, too great to be controled; and yet not large enough to maintain an independent footing. During this session discontent began to show itself with the constitution of Kentucky; in consequence of which a bill was brought into the legislature for taking the sense of the people on the question of calling a convention to revise the constitution. The immediate occasion of this dissatisfaction

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had arisen out of the rejection by the Senate of a bill respecting occupying claimants of land, which had passed the House of Representatives at the preceding session. This measure had attracted the public affections, which were now manifested by petitions from several parts of the State in its favor. The aristocratic character of the senatorial organization and the remoteness of their choice from the people, their appointment of the electors themselves, as members of the Senate, and the filling of their own vacancies, were exciting public dislike.

A remarkable bill passed the Senate for selling the public lands, south of Green river, to Elisha J. Hall and company, for two hundred and fifty thousand dollars, to be paid in short instalments; it was, however, rejected in the House of Representatives, by a vote of nineteen to thirteen, to the great emolument of the commonwealth, in a pecuniary point of view.

At this session, the Auditor, Treasurer, and Secretary of State were required to live at the seat of government. An addition to their salaries, raising them to $600 each, and also one of $333⅓ to the Governor, making his salary $1333⅓, were made this session. The pay of the members of assembly was also raised from one dollar to one dollar and a half a day. This may be viewed as pretty conclusive proof of the general rise of prices in the country; and as no artificial substitutes for money then existed in this part of the country, it must be attributed to the depreciation of money in the general markets of the United States; and the consequent appreciation of all the articles of living. In the ensuing May, 1796, a general election was held for electors of Governor, and Senate, as well as for members of the House of Representatives. At this election, James Garrard and Benjamin Logan were considered as candidates; the former of whom was chosen as successor to Isaac Shelby. By this gentleman Harry Toulmin was appointed Secretary. There is something liberal and honorable in a gentleman, who had been a follower of Dr. J. Priestly, in England, and a minister of the Unitarian sect of Christians, becoming Secretary of State in Kentucky,

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without public resentment. The same gentleman was afterwards appointed a United States' Judge in the territory of Alabama. So dignified an appointment of a foreign gentleman, either implies no little indifference, or great liberality of principle in the public feelings of the western country. No gentleman could more richly have deserved the latter, than the one in question. He was the author of a respectable digest of the laws of Kentucky, strongly marked by a discriminating and cultivated mind.

The opening speech of the new Governor, at the November session, "congratulated the State upon the condition of peace, procured by the directions and exertions of the federal government, as the instrument of a wise and gracious Providence. Add to this, the increase of population; the extension of the settlements to the extremities of our territories; the flourishing state of agriculture; the increase of improvements; the establishment of manufactures; a year of the greatest plenty, in succession to one of the greatest scarcity, with the hopeful prospects opening to agricultural industry and commercial enterprise, by means of the late treaty with Spain, which has opened the navigation of the Mississippi, and a port at Orleans for us; objects long and ardently desired."

In addition to these views, so cordial and honorable to the federal government, and by no means common in the public proceedings of Kentucky; the Governor invited the attention of the legislature to the amelioration of the criminal code, the state of the revenue laws. The Green river settlers are said to have paid $13,333⅓ into the public treasury, and that the Auditor's statements exhibited a balance of more than $36,666⅔ in favor of the public. Six new counties were created this session; and considerable and laborious attempts at simplifying and digesting the laws by new statutory enactments. During this session was passed, "an act *establishing* the court of Appeals;" This, although approved by the Governor, and which, according to the precedents established in repealing the County Court and Quarter Session system, and

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choosing new officers, ought to have led to a new appointment of judges in the Supreme Court. Nothing was, however, done under the law, in regard to the commissions or offices of the judges. Whether the attempt to commission new judges of this high court, would have been likely to have kindled the fierce blaze, which a similar measure has so awfully done, in more recent times; the author is not sufficiently acquainted with the temper and spirit of the times to express an opinion.

He cannot bring his own mind to discriminate between the duration of the offices or the tenure of the judges, in any of the courts; they all hold alike by the tenure of good behavior; they are all personally appointed by the intervention of a statute, which must prescribe their number, fix their compensation, attach the requisite officers, and in fine, equally give all the courts efficiency and life. Where then is the ground of discrimination in the constitution? How is one court more created by the constitution than another? If there cannot, in the nature of things, be more than one Supreme Court, still the constitutional mandate does not fix the number of the court, and does not bring the court into existence, without the same legislative operation in regard to the highest as well as the lowest court in the commonwealth. If then the judges of the former would not constitutionally follow the fate of their offices, neither did the County Court magistrates, the judges of Oyer and Terminer, the district judges, nor the circuit judges. The constitutional mantle covers all with the same privilege of continuance in office; it privileges all, or none.

The expediency of this legislative interference, particularly with the Supreme Court, the author is free to abandon, as utterly indefensible, consistent with impartial and unsuspected justice, which forms a palladium against oppression of all sorts, checked by the spirit of a free legislature, and that of a moral and cultivated people.

In order to connect the affairs of Kentucky with the general government of the Union, it is necessary to remark, that, on General Washington's declining a third canvass for the Pres-

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idency, in his affectionate valedictory to his countrymen, charged with the profoundest and most affectionate wisdom, the public mind principally fluctuated between John Adams, the Vice President, and Thomas Jefferson, the late Secretary of State; both able and distinguished patriotic statesmen of the revolution. On counting the electoral votes, it was found, that a majority of three votes was in favor of John Adams, as President of the United States, for four years from the fourth of March, 1797; and the next greatest number of votes being in favor of Thomas Jefferson, he become, under the original constitution, Vice President of the United States.

Embalmed as these great statesmen now are, in the affectionate regards of their admiring countrymen, they were looked upon at the times which are describing, as the respective chiefs of the two violent parties into which the people of the United States were so intemperately and illiberally divided; and which were known at the time as the Federalists and Democrats or Republicans. The former appellation had originated in the support of the federal union of the States, which was most soundly believed to require the additional energies contained in the new constitution of 1789. The name had, however, by a natural transition, been applied to the friends of the measures adopted to put the new system into efficient operation. The titles of their antagonists had been changed from the former term of anti-federalists, which had ceased to be descriptive of the measures or the wishes of the party; it now denoted the opponents of the elder Adams. It is, however, due to the character of our countrymen, as afterwards eloquently expressed by Mr. Jefferson, to say, they were all federalists, they were all republicans, that is, in the general sense of the terms, independent of their temporary and party meaning. The great overwhelming mass the nation were equally friends to the union of the States, and to the popular, or democratic character of the government, so far as the term can properly be applied to our representative democracy. The denomination of republican, then, it must never be forgotten, was equally applicable to both the great

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parties of the times, however they might differ in degree, and in the details of administering so popular a government, as that of the United States, under its worst possible operation.

It was during this session, that a measure was successfully revived, which had annually passed the House of Representatives since 1794, and which had as invariably been negatived in the Senate: it was an "act concerning occupying claimants of land." No branch of our legislation, or of our judicial administration is more complicated or more intimately connected with the dearest interests of the commonwealth, than that concerning occupying claimants of land. It concerns the deepest feelings of the human heart, for the freehold, cultivated and adorned as the last resting place of the laborer, and as the reward of some affectionate partner, or beloved offspring of that connection, when the cares of this life are no more. To these ties which fasten so firmly to the human heart, and which bind every people to the soil on which they live, and from whose bosom they derive their daily support, there were peculiar sources of endearment in the case of the people of Kentucky. They had risked their lives in the wilderness; they had lived in the constant apprehension of the rifle or tomahawk of the Indian; they had lived without bread and without salt, much less the innumerable comforts of civilized life; they had, many of them, lost the dearest friends of their life in the gallant struggle which they had maintained with the aborigines; all this they had suffered to obtain landed property; and now, when amidst a cloud of legal perplexities, new even to the subtle priesthood of the law, they were about to lose the fruit of their perils and their labors, could any people avoid feeling this painful condition to the very bottom of their hearts? Such were the feelings of the people of Kentucky, when they found the elder patents of Virginia claimants, brought against the actual settlers, and improvers under a junior patent.

The author is not unaware, that he is entering into a subject, which has divided the highest tribunals of the law; and even the bar of Kentucky, so justly celebrated for its acumen on this novel subject of adjudication, under all the

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peculiarities of the land law of Virginia. Nor can the reader be more admirably introduced to this complex portion of our legal history, than by the following delineation drawn by the hand of a master in the petition submitted to the Supreme Court of the United States, for a review of the case of Green vs. Biddle.*

What, then, is in popular language the nature of the dispute between the occupying, and non-occupying claimants of lands in Kentucky? This question can only be answered, by entering into the nature of our land titles, or interests more properly speaking, before they were consummated into titles, or complete rights in fee simple. "By the land law of Virginia, passed in 1779, for the settlement and sale of the unappropriated lands of the commonwealth, any person holding a warrant for any quantity of land belonging to the commonwealth, might enter in the surveyors' books, the boundaries of such lands as he wanted to acquire *previous* to any survey: but he was required "to direct the location thereof so *specially and precisely*, as that others may be enabled with certainty to locate warrants on the adjacent residuum." In addition to this description of claim, originating in the commonwealth's warrant, was another important class of persons, who claimed rights of settlement or pre-emption, as described under the history of the land law in its appropriate year. These claimants were required to obtain certificates from the commissioners appointed for that purpose, as has been mentioned, naming the cause of the claim, the number of acres, and "describing as near as may be the particular location." Under these brief texts, has arisen a system of judicial legislation, fraught with subtlety and perplexity; aggravated by the licence and multiplicity of surveys by which the territory of Kentucky, in the emphatic language of judge Rowan's petition to the Supreme court was "encumbered and cursed with a triple layer of adversary claims." Under this inheritance of litigation and uncertainty, was the land to lie idle because no

* Judge Rowan concurred in by Mr. Clay. 8 vol. Wheaton's Reports.

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man could ascertain his precise legal right, unless issued by the land commissioners? Should the blood which had been so gallantly spilled, the heroic effort which had been so nobly made, be all in vain, because the land was vexed with an uncertainty of titles? After expelling the Indians, the forests had to be felled, the wilderness was to be tamed and subdued under the hand of civilized man. But who could in safety exert this labor; who would risk the prime of his life in cultivating and improving the soil, if notwithstanding the solemn deed of the government in his hands, the patent of the State, he was liable to be turned off the land, the State had covenanted to be his; and deprived of all the fruit of his cares and his toil? It would have been equivolent to a sentence of perpetual waste, or of subordinate tenacy on the lands of Kentucky. Can it reasonably "be supposed" in the breathing language of the petition quoted above, "that the people of that district, after winning the country by conquest, under circumstances of privations, hardships and gloom, of which a *true narrative* would, on account of their peculiarity, seem more like romance, than history—a gloom not indeed uninterrupted; but when interrupted, brightened only by the gleams of their own chivalric daring and valorous achievment, that such a people would consent to clear up the grounds, erect houses, build barns, plant orchards, and make meadows for the sole convenience of those, who had *latent* rights, and who during the war, and while the improvements were making, had remained as *latent* as their rights?"

To avoid these mischievous consequences the legislature of Kentucky early perceived the necessity of interposing its guardian authority between the honest bona fide occupant of the land, by virtue of a younger patent, and the non-occupying patentee of elder date. This was done by a bill introduced this session by Mr. Humphrey Marshall, providing* "that the occupant of land from which he is evicted, or deprived by better title, shall be excused from the pay-

* Wheaton's Reports, Green vs. Biddle.

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ment of rents and profits accrued, prior to actual notice of the adverse title, provided his possession was peaceable, and he shows a *plain and connected title* in law or *equity deduced from some record.* It moreover enacted, that the successful claimant should be liable to a judgment against him for all *valuable and lasting* improvements made on the land, prior to actual notice of the adverse title, after deducting from the amount, the damages, which the land has sustained by waste or deterioration of the soil by cultivation. If the improvements exceeded the value of the land in its unimproved state, the claimant shall be allowed the privilege of conveying the land to the occupant and receiving in return the assessed value of it without the improvements, and thus protect himself against a judgment and execution for the value of the improvements. If he should decline doing this, the successful claimant was to recover possession of his land; but should then pay the estimated value of the improvements, and also lose the rents and profits accrued before notice of his claim. As to improvements made and profits accrued after notice of the adverse title, the amount of the one shall be deducted from that of the other, and the balance added to, or subtracted from the estimated value of the improvements made before such notice, as the nature of the case may require." It is provided by a subsequent clause, "that in no case, shall the successful claimant be obliged to pay for improvements made after notice, more than is equal to the rents and the profits."

Such is the nature of the great remedial statutes of Kentucky, intended to protect the agricultural industry of the State from the distressing uncertainty which had attached to its land titles, growing out of the mischievous system of selling claims to land before its boundaries had been surveyed and identified. This statute of peace and honest compensation, was opposed on its introduction into the legislature by Mr. James Hughes, a learned and highly reputable lawyer, then a member of the House of Representatives, from the county of

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Fayette. He early took the ground, that it was a violation of the compact of separation with Virginia, and which having declared that the rights and interests of lands derived from the laws of Virginia, should be decided by the laws in force when the compact was made; and this of course, precluded all legislation on the subject." To this it was replied by Mr. Marshall, "that, upon the gentleman's principles, the compact had been already violated, by passing the act of November, 1792, allowing further time to appoint agents for surveying lands, &c.; that indeed, it might be doubted if the law subjecting lands to execution for the payment of debts, was not also a violation of the constitution; for there certainly was no such law of Virginia at the date of the compact; and that it did as certainly affect private rights and interests of lands derived from the laws of Virginia. Nay, our revenue laws go to the same description of rights and interests; they are acts of the Kentucky legislature; yet their constitutionality has not been questioned. That indeed, if the doctrines of the gentleman from Fayette were correct, Kentucky had excluded herself by compact, from legislating on the subject of her lands claimed under the Virginia laws; then the only laws of origin and derivation of claims to lands known in the country. But he has mistaken both the character of the bill and the nature of the compact. The latter, it is true, confines the decisions on conflicting claims, derived from the laws of Virginia, *prior* to the separation, to the laws in force at the time of making the compact; while the former, supposing the right to be so adjusted, steps in to adjust not a matter of right or interest, existing prior to the separation; nor at all concerning the origin or derivation of the parties' rights or interests in the land itself; but solely concerning its occupancy, and the mutual demands of rents made on the one side, and for improvements made on the land, on the other. Demands which may now be settled and adjusted by the Chancellor, where the suit is in chancery for the title, which gives him jurisdiction of the incidents with the principal matter; but which it is understood, can not be adjusted where the proceeding is at

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law—as in case of ejectments. Now, the purpose of the bill is, to extend the principles to the eviction by ejectment; and without exposing the occupant to be turned out of possession unremunerated for improving the land, and subject to be sued for rents, or driven to a doubtful suit at chancery; at once to afford him a plain, safe, and expeditious mode of adjusting these matters, in the court where the judgment of eviction has been pronounced; and by the same uniform process, whether the decision was at law or in chancery. Can not the legislature do this? Can it not resolve by law, an equitable principle into a statutory provision? Then neither can it alter any part of the common law. Doctrines to which I can not subscribe." This measure, whose importance has induced the above abstract of remarks in the legislature of that day, passed both Houses; in the House of Representatives there were but eight votes against its becoming a law. This measure of beneficent policy was acquiesced in and apparently approved by all parties. But unfortunately, in 1812, this law was further altered by enacting, that "the claimant may avoid the payment of the value of improvements, (whether valuable and lasting or not,) by relinquishing the land to the occupant, and be paid its estimated value, in its improved state." Thus, if the claimant elect to pay for the value of the improvements, he is to give bond and security to pay the same, with interest, at different instalments. If he fail to do this, or if the value of the improvcments exceeds three-fourths of the unimproved lands, an election is given to the occupant, to have a judgment entered against the claimant for the assessed value of the improvements; or to take the land, giving bond and security to pay the value of the land, if unimproved, by instalments with interest. But, if the claimant is not willing to pay for the improvements, and they should exceed three-fourths of the value of the unimproved land, the occupant is obliged to give bond and security, to pay the assessed value of the land, with interest; which if he fail to do, judgment is to be extended against him for such value, the claimant releasing his right to the land, and giving bond and security to warrant the title. If

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the value of the improvements does not exceed three-fourths of the value of the unimproved lands, then the occupant is not bound, (as he is in the former case,) to give bond and security to pay the value of the land; but he may claim a judgment for the value of his improvements; or take the land, giving bond and security, as before mentioned, to pay its estimated value.

The exemption of the occupant from the payment of the rents and profits, extends to all such as accrued during his occupancy, before judgment rendered against him in the first instance; but such as accrue after such judgment, for a term not exceeding five years, as also waste and damage, committed by the occupant after *suit brought*, are to be deducted from the value of the improvements, or the court may render judgment for them against the occupant. The amount of such damages, rents, profits and waste, and also the value of the improvements, and of the land, without the improvements, are to be ascertained by commissioners, to be appointed by the court, and who act under oath." Under this law "it was made the interest of the party in possession under a bad claim, to postpone and put off a final decision, as long as possible; which the rents of the land enabled him to do. There was no saving of the rents to those who had commenced suits under the former law, which entitled them to rents if successful, as an offset to improvements made on the land." "The necessity of paying for all improvements, however useless they might be, or of surrendering the title to the land at its woodland price," was deemed a great grievance under this new form of the law. These complaints led to the famous suit of Green against Biddle, in the Circuit court of Kentucky, which upon a division of opinion between the judges, produced a reference to the Supreme court of the United States, for its opinion upon the constitutionality of the above recited acts of Kentucky, concerning occupying claimants. Both the parties claimed under patents from Virginia, prior to the separation of Kentucky from the parent State. The court in February, 1821, decided against the constitutionality of these acts, "as a violation of the 7th article of the compact with Vir-

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ginia. On the application of Mr. Henry Clay, as amicus curiæ, that the certificate to the Circuit court should be withheld, the case was continued to the next term for argument. In the ensuing session of the legislature, this subject excited deep and fixed attention; and was particularly brought before that body by the Governor. The matter was submitted to a committee, of which that honest and distinguished statesman, John Pope, was chairman, who drew up a dignified and cogent view of this controversy, so deeply interesting to Kentucky. In this report, it was maintained, that "the plain and common sense meaning" of the terms private rights and interests of land, used in the compact, "as it has been understood by the parties, and the people generally, is, that those rights and interests of land, derived from the laws of Virginia, should be valid and secure under Kentucky; and that the laws of Virginia were to furnish the rule" for their decisions. Such has been the construction given to this article of the compact, by the courts here. "The word right is applied in the land law, to both imperfect and complete title. Settlement rights and pre-emption rights are mentioned; and in the provision respecting caveats, the word right is used in reference to a title by entry or patent, because either will authorize a caveat. The words right and title, in common parlance, in statutes and in law writers, are often used as synonymous terms. There is no foundation for supposing, that the parties to the compact, meant by rights and interests, any thing different and distinct from titles. A patent from a State, or the general government, is a contract, which the government can neither revoke nor impair, according to the decision of the Supreme court, in the case of Peck against Fletcher. A patent is a contract for title, so far as the grantor has it, and for all that use and enjoyment, which is incident to the ownership of property, subject always to those burdens and to that policy, which the welfare of the government which protects it, may impose. The compact with Virginia, and the compact with every patentee, are in effect the same, and the occupying claimant laws of Kentucky, if unconstitutional for their violation and impairing the value of the Virginia patent, are equally

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unconstitutional for impairing the patents of Kentucky." "It should be remembered that every citizen of a social community is identified with its general welfare, and whatever burdens, that demands, may be rightfully imposed, unless interdicted by some constitutional limitation of power." Another view of this subject presents much force; that the decision of the Supreme court of the United States, is in direct opposition to the Supreme court of Kentucky, upon a question of its own local constitution, which in all comity, and by virtue of the case of Colder and wife against Bull, appertains exclusively to the local tribunal. In consequence of this report, the legislature came to resolutions affirming the constitutionality and importance of the occupying claimant laws, appointing commissioners to open a communication with Virginia, concerning the meaning and execution of the compact between that State and Kentucky, and finally requesting the said commissioners, to oppose before the Supreme court, any attempt to declare void the laws in question. By virtue of these resolutions, Messrs. Clay and Bibb were appointed commissioners, to execute this important trust. They appeared before the legislature of Virginia, as well as the Supreme court, and argued the constitutional and pactional character of the Kentucky occupying claimant laws, with what effect will hereafter be seen.

It ought to be mentioned in connexion with this part of the subject, that at the session of 1821–2, Virginia had deputed Watkins Leigh, Esq., as her commissioner to wait on the legislature of Kentucky, and invite legislative provisions for certain military claims arising out of the revolution; if that should not be granted, then to ask of the legislature the organization of a board of commissioners, in conformity with the compact between the two States, for the purpose of deciding all matters in controversy between them. To the latter proposition, Kentucky acceeded, and on the 5th of June, 1822, Messrs. Clay and Leigh, on the part of the two States, entered into an agreement for organizing a board of commissioners according to certain contingent articles; reserving to their respective States, the right of ratifying or rejecting them. This ratification was, however,

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refused by the Senate of Virginia, after it had been fully extended by this Commonwealth, and Jacob Burnet, Esq., of Ohio, and Hugh L. White, Esq., of Tennessee, had been appointed commissioners under the convention upon her part. A result, to say the least, little to be expected from a negotiation, solicited by Virginia herself, when a friendly negotiation might have saved the people of Kentucky, the distress and apprehension so extensively felt on the subject of these favorite measures of peace, and honest compensation for labor, expended under the faith of the very acts and records of Virginia. After the argument of Messrs. Clay and Bibb, in opposition to Messrs. Hardin and Montgomery, before the Supreme court of the United States, their judgment was held up till after they had learned that Virginia had refused to organize the commission contemplated by the compact. This high tribunal then, by the opinion of judges Washington, Duval and Story, judge Johnson dissentient, judge Marshall not sitting, judge Livingston lying ill, as well as judge Todd, decided against the constitutionality of both the occupying claimant laws of 1797 and 1812. The main argument of the court seems to be, that the acts in question conflicted with the provision of the constitution of the United States, which prohibits any State from passing any act impairing the obligation of contracts. This reason, with all the deference due to this exalted and most able court, whose learning, wisdom and purity have shed judicial glory around the republic, and conferred new honors on the great profession from which they have sprung, is utterly dissented from by repeated decisions of the Supreme appellate* court of this state, and not held any more as law in Kentucky NOW, than *before* the decision in the case of Green against Biddle. Our court of Appeals say,† "that we should consider ourselves bound by the decisions of the Supreme court of the United States, *settling* a construction of the constitution or laws of the United States, in cases where it possesses revising jurisdiction over the decisions of this court, we shall not pretend to controvert." But "the case of Green against Biddle was decided by three only of the seven judges,

* See Pirtle's Digest, vol. 1—169-3. † Monroe's Reports, 58, Bodley vs. Gaither.

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who compose the Supreme court of the United States; and being the opinion of less than a majority of the judges, cannot be considered as having settled any *constitutional* principle. It would not, we apprehend, be considered conclusive in any subsequent case that may be brought before it." At the same time the court intimated that it did not intend to *admit* the binding force of that opinion of the Supreme court, if it had been the unanimous opinion of all the judges composing that court.

There are circumstances connected with the decision of the Supreme court of the United States, in the case of Green against Biddle, which demand the animadversion of every patriot, and are due to the rights and dignity of Kentucky. Upon the ratification of the convention between Messrs. Clay and Leigh, the legislature of Kentucky appointed Henry Clay, Esq., and judge Rowan, in 1822, to attend as counsel before the tribunal to be organized in conformity to the above mentioned convention. These gentlemen, upon learning the decision of the Supreme court, determined to make one more struggle for the dearest interests of the enterprising and unfortunate pioneers of Kentucky, by a petition for a reconsideration. Accordingly, a comprehensive and able argument was drawn up by judge Rowan alone, owing to the other engagements of Mr. Clay, richly imbued with the ardent eloquence adorning that gentleman, and which received the commendations of his eminent colleague. When judge Rowan attempted to read this petition, on behalf of one of the high parties to this confederacy,* "the court would not hear it read; and it was with great apparent reluctance that judges Washington and Duval agreed to take and read it in their chamber. Judge Story would not assent even to that measure. Judge Johnson was throughout favorable to the application. It was on a subsequent morning overruled."

On the application, judge Washington observed to judge Rowan, that every deliberation had been bestowed on this subject, the pride of Kentucky had been heard on it, and no new views could be presented. This, it must be observed,

* Judge Rowan's letter to Gov. Adair.

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is too supercilious a spirit to be indulged, on questions involving the constitutionality of the laws of the States; which of all others are so calculated to convulse the confederacy to death. Not that it is meant to disparage the wholesome jurisdiction of this high court, the Areopagus of the republic; but it is intended to advocate profound caution in discharging so invidious, and yet so indispensable a controling power over the great political bodies, which compose our federal system. Too much delicacy and conciliation of manner, can scarcely be exhibited in executing these high prerogatives. Under the influence of such opinions, would not the petition of Kentucky, (for so that of her counsel must be considered,) have been readily heard and examined; and if the opinion of the court had been held up, (supposing it unaltered on a subject so peculiarly local,) it would have lost no weight by its age; and it would certainly have gained much in the graces of an ardent people, whose fields and fire-sides were involved in its operation.

The author may not refrain from enriching his pages with some extracts from this petition, so ungraciously received by the Supreme court of the United States, yet marked with intense investigation, and animated by a profound zeal for the interests of Kentucky.

"Can it be supposed, or presumed, reasonably, that the District of Kentucky, engaged, at the date of the compact, in its tenth years' war with the savages, that occupied the wilderness, on its southern, western and northern frontier, itself almost a wilderness—a war which had not intermitted during all that time, and had been unusually sanguinary, with its settlements sparse, and scattered, weak from the paucity and dispersed state of its population. Not knowing certainly when the war would terminate; or with what farther ravages, its progress might be marked. Situated, from three to five hundred miles, from any efficient source of assistance. Constrained to rely upon its own strength, and resources. Its territory encumbered and cursed with a triple layer of adversary claims. Can it be supposed, that a district thus situated; conscious that it

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needed the strength of increased population, not only to sustain it in the war in which it was engaged; but to reduce its wilderness land to a state of cultivation, and thereby furnish the resources necessary to sustain the new government, would in the very process of its formation, surrender the power, so indispensably necessary, if not to its very existence, certainly to its well being and prosperity? It needed the power to furnish incentives to emigration and to industry; to silence as speedily, as it could be justly done, the litigation in relation to its lands, which threatened its repose. Can it be presumed, it is again asked, to have consented to part with those powers, which, if they were not essential to its sovereignty, were indispensably so to its condition?

"It remained, when the Indians should have been conquered, to subdue the forests of the wilderness. Can it be reasonably supposed, that the people of that district, after winning the country by conquest, under circumstances of privation, hardship, and gloom, of which a *true narrative* would, on account of their peculiarity, seem more like romance, than history—a gloom not indeed uninterrupted; but when interrupted, brightened only by the gleams of their own chivalric daring, and valorous achievement; that such a people would consent to clear up the grounds, erect houses, build barns, plant orchards and make meadows, for the sole convenience of those who had *latent rights*, and who, during the war, and while the improvements were making, had remained as *latent* as their *rights?*

"The conduct of the State of Kentucky, whatever may have been said of it by the *misguided* or the *unprincipled*, has been high-minded, liberal and indulgent towards non-resident claimants of lands in that State. She indulged them from year to year, for six years, to make their surveys, and from year to year, for twenty years, to return plats and certificates of survey to the Register's office. She repealed her laws against champerty so early as the year 1798, in the mistaken view of furnishing to them increased facilities of disposing of their claims; and in all her laws for the appropriation of vacant lands, she declared that every survey or patent which might

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be obtained under those laws, should be absolutely void, so far as it should interfere with a survey made in virtue of a right derived from Virginia."

The mischievous operation of this decision of the land titles of Kentucky, has been arrested by two causes; neither of which, was anticipated at the time it was given by the Supreme court. The first has been the refusal of the Appellate court of Kentucky* to be bound by an opinion of the Supreme court of the United States, not concurred in by a majority of the whole court. The second has been the subsequent determination of the Supreme court, unanimously affirming the constitutionality of the act of Kentucky, limiting the commencement of actions against actual settlers, within seven years from its passage; and its consistency with the compact between Virginia and Kentucky. This additional quieting measure was passed on the 9th of February, 1809, and its constitutionality was affirmed in 1831, in the case of †Hawkins et. al. vs. Barneys' lessees. Thus has the poison and the cure proceeded from the same source, though the forfeiture of the land itself, would seem, to one uninitiated in the mysteries of the law, a much more fearful violation of the obligation of the contract, contained in a patent for land; than the subjection of that same land to a salvage, or per centage for actual improvements, made upon it, in as good faith, as that which gave the elder patent. Less than this, could not well be said on a subject connecting itself with the sacred freehold, the Dii Penates of the State.

* Littell's Laws, iv. 56. † Peters' Report, 5.

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CHAPTER XVI.

Convention—Emancipation of Slaves—Henry Clay—Penitentiary Code—Alien and Sedition Laws—Nullification Resolutions of Kentucky in 1798-1799—Abjuration of this doctrine in 1833—Constitution of 1800—State of Legislation—Trade—Election of Mr. Jefferson as President of the United States—Judiciary Repeal—Repeal of the Internal Taxes—Insurance Company.

During the year 1797, a partial and irregular vote was taken on the question of calling a convention to revise the Constitution. By this, the whole number of voters was represented as "nine thousand eight hundred and fourteen, and that of this number, five thousand four hundred and forty-six were for a convention. Of the twenty-one counties, then existing in the State, at the time of the general election in May, 1797, there were five which made no return of those who voted at the election." A bill for taking the sense of the people on the assembling of a convention, fell, in the Senate, by a small majority. This measure, like most political topics, is said to have gathered strength by agitation.

The aristocratic constitution of the Senate, formerly hinted at, became a free topic of public animadversion—its remoteness from the choice of the people; though not more so than that of the President and Vice President of the United States is, at this moment, under the federal constitution; yet it was highly odious to the people.

The emancipation of slaves, presented another matter of ferment and uneasiness. On this delicate point, Mr. Clay, who had only come to the State in 1797, took the fearless part of advocating a gradual emancipation of slaves, which his noble spirit has ever dictated. It was the precursor of that illustrious career which he has so honorably run, in supporting the wise and pure charities of the "Colonization Society." Such are said to have been the principal points of agitation among the people; still no decisive popular vote could be obtained on the question, at the August election in 1798. The result, as before, left several counties unrepresented on the matter; seven out of twenty-four of them, did not vote on

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the question at all, and the total presented, eleven thousand eight hundred and fifty three in favor of the convention, and eight thousand eight hundred and four against it. A law, however, passed this session, for calling a convention on the 22d July, 1799.

A memorable change in our criminal code was effected during the session of 1797–98; it was the abolition of the punishment of death, for any offence but that of murder in the first degree. This species of crime was defined to consist in "murder, which shall be perpetrated by means of poison, or by lying-in-wait, or by any other kind of wilful, deliberate and premeditated killing; or which shall be committed in the perpetration, or attempt to perpetrate any arson, rape, robbery, or burglary." Other kinds of homicide were to be punished with confinement in the penitentiary, for not less than five, nor more than eighteen years. Other offences were made punishable by similar alleviations.

But while there can be no doubt, that the spirit, in which this great revolution in our criminal code originated, was one of the purest benevolence; one that has engaged the minds and hearts of some of the warmest friends of social order, and moral improvement, the Beccarias and the Howards of society; yet there are considerations for the security of the innocent and injured, who become the victims of lawless passions, which have been too much lost sight of in some of our penitentiary systems. Punishment for crime may be made so tolerable under the influence of a false and perverted humanity, as to neglect the violated rights of society. Feeling for the effects brought upon criminals by their inordinate passions, may be carried so far as to lose sight of the just claims of the innocent. In another point of view, penitentiaries, according to their management, have in many instances, been schools of vice, and sources of augmented corruption, instead of institutions of reform; either by their physical or moral influences. Tested by any of the principles, which have received the sanction of the wisest friends of ameliorated legislation on criminal punishments, the author fears the

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penitentiary of Kentucky will be found to be far short of practicable perfection.

On these points of interesting law, the friends of humanity have been not a little divided. One portion attaching the importance of this species of punishment to solitary confinement exclusively, with or without work; the other to a system of rigid, silent labor, but without solitary confinement. The models of these respective systems are to be found in the Eastern Penitentiary of Philadelphia, for the first system, and the Sing-Sing establishment in the State of New-York, for the other.*

In the year 1798, an agitation took place, which has scarcely ever been equalled in Kentucky, produced by the passage of two acts of Congress, familiarly known as the alien and sedition laws. The sentiments of Kentucky were never more unanimous than in the condemnation of these measures. The Governor, in his first communication to the legislature, after their passage, called the attention to these measures of that body, by "telling them that they had vested the President with high and dangerous powers, and intrenched on the prerogatives of the individual States, have created an uncommon agitation of mind in different parts of the Union, and particularly among the citizens of this commonwealth.' The alien law authorized the President of the United States "to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable ground to suspect are concerned in treasonable or secret machinations against the government thereof, to depart out of the territory of the United States." By another section the President was authorized to "grant license to any alien to remain within the United States for such time as he shall judge proper, and at such place as he may designate." In addition to these high and arbitrary powers over aliens,

* The reader, who feels a curiosity to investigate these great moral problems, will find them most ably and impartially discussed in the "Report of Messrs. G. De Beaumont and A. De Toqueville, on the Penitentiary system of the United States, to the government of France." It is translated by the learned and sagacious Leiber, the editor of the Encyclopedia Americana; accompanied by notes in the usual full and philosophical manner of this learned German, who has honored our country by adopting it. Philadelphia, 1833.

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whose nations were at peace with the United States; powers so calculated to arouse the jealousies of a people attached to their liberties, it was likewise enacted, that should any alien return, who had been ordered out of the United States, by the President, "unless by his permission, he shall be imprisoned so long as in the opinion of the President, the public safety may require."

The sedition law was still more odious than this measure; it attempted to protect the official conduct of the different branches of the government of the United States, from that free and unrestrained discussion, alone worthy of a people canvassing the public conduct of their agents. This object it effected by holding any person answerable, by fine and imprisonment, "who should print, utter, or publish any false, scandalous and malicious writing against the government of the United States, the President of the United States, or either House of Congress, with intent to *defame*" "either of them," or "excite against either of them the *hatred* of the good people of the United States." The great objection to this measure is, not its subjecting malicious falsities to punishment; but its subjection of *opinion*, however honestly entertained, to fine and imprisonment.

It is not meant by the author to shield, or apologize for the licentiousness of the press, for its wanton impugning the motives of public men, and the imputation of its own scandalous inventions, much less its unprincipled dissemination of known falsehoods. All such offences, independent of their heinous immorality, their violation of all honorable decorum and liberal discussion in lacerating private feelings, are essentially destructive of the sound and valuable influence of the press. It has already impaired the weight which this great instrument of intellectual and moral circulation ought to have on the community. The frequency of falsehood perplexes the discrimination of truth; and the press ceases to be a credible witness at the bar of the public.

But are penal laws the proper instructors for the community in liberality and decorum of political discussion? Can they

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infuse the moral sensibility and sympathy, which shall correct the fierce and ferocious effusions of political passions and prejudices? No government or court is competent to exercise, these high attributes of political and critical censorship. Opinions are only to be combatted by argument and wit; they are not to be confounded with matters of fact, which may be susceptible of precise testimony and proof. These are the regions of mental freedom, which ought to be open to the excursions of all minds, untrammeled by fears of prosecution. Nor should any intellect be discouraged from penetrating these bowers of philosophic meditation, so productive of valuable lessons to society; by apprehensions of legal penalties, from the differences of opinion between an author and a jury. In confirmation of these remarks, the first amendment to the Constitution of the United States declares, that "Congress shall make *no* law respecting an establishment of religion, or prohibiting the free exercise thereof; or *abridging* the freedom of speech, or of the press." The whole spirit and tenor of this constitutional provision seems to prohibit all legislation on these sacred and invidious subjects. It was contended, however, that it was a law restraining the licentiousness of the press, and that the right of giving the truth of a libel in evidence provided by this law, was an alleviation of the common law which forbade it. Yet the fact of there having been no law of libel or scandalum magnatum, under the federal government, previous to this unfortunate attempt to establish one, obviously rendered the liberty both of speech, and of the press, less than it had been. Thus far, in all rational estimation, the law abridged the freedom of both. Besides, the liberty of speculative discussion cannot safely be discriminated from its licentiousness. No doubt these measures originated in a distempered state of public feeling, and high party excitement. The passions were indulged to disgraceful and exasperating extremes, and nearly in the same degree on one side as on the other. French and British sympathies overwhelmed the feelings, which should ever bind fellow countrymen together in a band, superior to

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partiality for a foreign nation. One party provoked the other to extremities, which the cooler feelings of neither would sanction. Nor would these unhappy feuds be now referred to, were it not to preserve the additional lesson which they so eloquently convey, of the injustice, and the dangers of factions to the liberty and prosperity of republics.

Such were the views which generally actuated the republicans, as the opponents of President Adams, the elder, denominated themselves. But names do not alter things, though they have a fearful operation amidst the fermentations and furies of party.

The sense of Kentucky, was expressed on these obnoxious measures in resolutions, which, with their allied brethren adopted by the legislature of Virginia, have become more memorable than the unhappy discords, which produced them. They have been pressed into the justification of the fatal perversion of the constitution, maintained by the South Carolina doctrine of nullification. These resolutions, which it has since been acknowledged were drafted by Mr. Jefferson,* and communicated by him to Mr. John Breckenridge of Kentucky, were intoduced by the latter gentleman on the 8th day of November,† into the House of Representatives of Kentucky. The essential and important doctrine, conveyed by these resolutions, independent of their protest against the alien and sedition laws was, that the several States composing the United States of America, are "united by a compact, under the style and title of a constitution for the United States, that to this compact, each State acceeded, as a State, and is an integral party, its co-States forming to itself the other party; that the government created by this compact, was not made the exclusive or *final* judge of the extent of the powers delegated to itself;" "but, that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well as of infractions as to mode and manner of redress."

IV. 258, 305. VII. 229. IX. 464

On the 9th, the House resolved itself into a committee of

* Taylor's Inquiry, p. 174. † Palladium, 13th, 1798.

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the whole, on the state of the Commonwealth, when the resolutions above mentioned, were moved by Mr. John Breckenridge of Fayette, seconded by Mr. Johnson.* A brief debate arose between Mr. William Murray, from Franklin, and the mover: the opposition appears to have been but faint, as far as the meagre report of the discussion can aid conjecture. Mr. Murray, in the report subsisting, confined himself to deprecating an expression of opinion on the part of the legislature; "where is the clause," he asked, "which has given you this censorship—where is the clause which has authorized you to repeal, or to declare void, the laws of the United States? If we have been elected by our fellow citizens, to watch over the interests of our Commonwealth, shall we consume our time—shall we divert our attention from the objects for which we were specially sent here, in fabricating theories of government, and pronouncing void the acts of Congress?" After expatiating on the imbecility of the confederation, and the necessity of forming a closer union and a more energetic government. "This constitution," he showed, "was not merely a *covenant* between integral States, but a compact between several *individuals* composing these States. Accordingly, the constitution commences with this form of expression: "We, the people of the United States," not "we, the thirteen States of America." In another place, this distinguished gentleman observes, that "the authority to determine that a law is void, is lodged with the judiciary." These sentiments, recorded in an obscure provincial newspaper, are the more worthy of being preserved, for their curious coincidence with the argument of the great orator of Massachusetts, in his triumphant vindication of the supremacy of the constitution of the United States, over all State laws. On this occasion,† in answer to Mr. Hayne, he said: "The gentleman has not shown—it can not be shown, that the constitution is a compact between the State governments. The constitution itself, in its very front, refutes that proposition; it declares that it is ordained and established by

* The Father of the Hon. R. M. Johnson. † January 6th, 1806.

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the people of the United States." The remarks of but one gentleman in reply to Mr. Murray are reported, and they are those of Mr. John Breckenridge, the mover: he observed, "I consider the co-States to be alone parties to the federal compact, and solely authorized to judge in the last resort of the power exercised under the compact Congress being not a party, but merely the creature of the compact, and subject as to its assumption of power, to the final judgment of those by whom, and for whose use, itself and its powers were all created." In another passage he says, "If upon the representation of the States from whom they derive their powers, they should nevertheless attempt to enforce them, I hesitate not to declare it as my opinion, that it is then the right and duty of the several States, to *nullify those acts, and protect their citizens* from their operation." On the same day, the resolutions passed both Houses,* the Senate unanimously; and they were approved by the Governor on the 16th of November. Important as these resolutions are, as having proceeded from the author of the Declaration of Independence; influential as they were in contributing to effect a great revolution in the administration of the general government, they, it must likewise be observed, have had a fatal importance in organizing the wretched and delusive misconstruction of the constitution, which has lately infatuated some portions of the United States. With these grave and interesting aspects, they will therefore be traced through their history, to the final disclaimer in our own times, of all such doctrines on the part of Kentucky; when she felt free from the intoxicating delusions of 1798. These expressions of Kentucky sentiments on some of the most prominent measures of the administration of the elder Adams, on being laid before the co-States, agreeably to the direction expressed in the 9th resolution, produced counter resolutions from all the States it is believed, but Virginia. She had echoed the same protest drawn by Mr. Madison, more emphatically than any other

* The final votes in the House were as follows:—nays on the 1st resolution, Murray; 2d, Brooke and Murray; 3d, Murray and Poage; 4th, 5th, 6th, 7th, and 8th, Murray; 9th, Brooke, Murray and Poage.—Palladium, No. 13. 1798,

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man, the father of the Federal constitution. Here is the cradle of nullification in the resolutions of Messrs. Jefferson and Madison. That the pernicious doctrine was *knowingly* rocked to growth and strength, by these sages, the author can not believe, against the solemn assurance of so chaste and virtuous a character as that of President Madison.

He declares that * "the tenor of the debates, which were ably conducted, and are understood to have been revised for the press by most, if not all, of the speakers, discloses no reference whatever, to a constitutional right in an individual State, to arrest by force, the operation of a law of the United States." "It is worthy of remark," he observes, "and explanatory of the intentions of the legislature, that the words, '*not law, but utterly null and void, and of no force and effect*,' which had followed in one of the resolutions, the word unconstitutional, were *struck out by common consent*." This is unexceptionable testimony for the *intentions* of Virginia; coming, as it does, from one of the purest political patriarchs, who was intimately conversant with the history of these transactions, now so unexpectedly brought under the public scrutiny. It will, however, be observed, that the language of Mr. Breckenridge in the Kentucky legislature, was unequivocally in favor of passing a law to "*nullify* the acts of Congress, and protect their citizens from their operation."

On these resolutions being laid before the legislature of the other States, counter resolutions were adopted, accompanied by counter reports, which it is believed, in the instance of Massachusetts, was expressed with much asperity. These produced the celebrated defence of the resolutions on the part of Virginia, by Mr. Madison. This has hitherto been deemed the very shiboleth and infallible test of immaculate republican faith, on the points involved within their scope; how justly may hereafter appear. In Kentucky, upon the re-assembling of the legislature, on the 14th of November, 1799, the first resolutions expressive of the sense of Kentucky, were passed by the house. In the Senate, Mr. John Pope attempted to amend them in their

* Letter to Mr. Everett, Book of the Constitution, p. 87.

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most obnoxious passage, by moving to strike out the words, "that a *nullification* by those sovereignties, (meaning the individual States,) of all unauthorized acts done under color of that instrument, (meaning the constitution of the United States,) is the *rightful remedy*," and inserting the words, "*the right of remonstrating and protesting* against such laws belonged to the States." With this amendment, the resolution would have read: "That the several states who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction, and *the right of remonstrating and protesting against such law, belonged to the States*" The amendment was carried in committee, but it was rejected by a majority of one, when the committee returned into the house, and the words moved to be stricken out by Mr. Pope, were retained. The resolutions were approved by Gov. Garrard, and the *theory* of nullification was fixed on Kentucky. But its practical execution was far from being approved; so much so, that when an attempt was made to convert the fire of the resolutions into an act to protect the citizens of this Commonwealth from the operation of the alien and sedition laws, by attaching penalties for any attempt to enforce them; the bill received its death blow in Kentucky, never, we trust, to rise from its polluted tomb, until revolution shall again become the only resource, for preserving the liberty and happiness of the Commonwealth.

This sketch would be imperfect, if it did not record the death, as it is most devoutly hoped, of this false, dangerous, and unconstitutional doctrine, and its solemn disavowal by the constituted authorities of Kentucky, in their resolutions approved by the Governor,* February 2d, 1833.

The essence of these resolutions is contained in the following extract: "That so long as the present constitution remains unaltered, the legislative enactments of the constituted authorities of the United States can only be repealed by the authorities that made them; and if not repealed, can in no wise be finally

* It is due to the memory of the late amiable and worthy Gov. Breathitt, to mention his particular desire expressed to the author, that he would record the solemn protest of Kentucky, against this doctrine, so fatal in its tendencies to the peace and happiness of this great and glorious republic.

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and authoritatively abrogated or annulled, than by the sentence of the Federal Judiciary, declaring their unconstitutionality; that those enactments, subject only to be so repealed or declared null, and treaties made by the United States, are supreme laws of the land; that no State of this Union, has any constitutional right or power to nullify any such enactment or treaty, or to contravene them, or obstruct their execution; that it is the duty of the President of the United States, a bounden, solemn duty to take care that these enactments and treaties be faithfully executed, observed and fulfilled; and we receive with unfeigned and cordial approbation, the pledge which the President has given to the nation in his late proclamation, that he will perform this high and solemn duty."

CHAPTER XVII.

Convention of 1799—Essential alterations of the old Constitution—New Constitution—Spirit of the Laws from Marshall—State of the Kentucky River—New government of Kentucky—Changes in the state of society—Commercial difficulties—Election of President Jefferson—Joy of Kentucky—Repeal of the Circuit courts of the United States, and of the internal taxes—Insurance Company—Circuit court system.

No measure of importance suggests itself to the author, at this stage of his history, without digressing beyond any necessity, into the narrative of national affairs, too often forced upon the early story of Kentucky; excepting the convention for framing a new constitution, in the 7th year of the old one.

This body assembled on the 22d of July, 1799; it was organized by the same number of representatives, which the counties were entitled to in the election of the House of Representatives, and elected by the ordinary voters; but the duration of the body was limited to four months. It proceeded to business by choosing Alexander S. Bullitt, a member from the county of Jefferson for its president, and Thomas Todd, the veteran clerk of Kentucky, as its clerk.

No report of the debates of this body, is known to exist; although proposals for taking and publishing them, are con-

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tained in the newspapers of the day. The various points of division can not therefore be stated; but as a substitute for this narration, a brief analysis of the important alterations in the government by the new constitution, will be offered. The first radical change is, the constitution of the Senate and Executive; the former of which instead of being elected by a college of electors, is distributed among a certain number of senatorial districts, not less than twenty-four, and an additional senator to be chosen for every three representatives, which shall be elected above fifty-eight. One fourth of this body is renewed every year, so that after the first three years, the senators hold their offices for four years.

The Governor instead of being elected by the same college of electors as the Senate, is chosen every four years by the voters directly; but instead of possessing the effectual negative of the old constitution, he is overruled on disapproving a law by a simple majority of all the members elected. Thus is the executive responsibility swallowed up by the legislature, and the representative of the whole commonwealth, is scarcely capable of exercising any effectual check in behalf of the people, over the errors or the mistakes incident to all popular bodies; and which are so usefully subjected to the re-examination of the community, as well as to that of their representatives, by an efficient veto. At present the executive veto is calculated to bring that department of the government into contempt, by its imperfect powers of withstanding the moral force and the esprit du corps, so characteristic of popular bodies. The patronage, which the Governor possesses in so simple and economical a community, furnishes a very confined and indirect influence. Most of the offices within his gift are irremovable at his pleasure. With these two essential alterations, the latter most indubitably for the worse, the new constitution was reported after the labors of twenty-seven days, on the 17th of August. It declared the former frame of government to be in force until the 1st of June, 1800; when the new fundamental law of the State was to go into operation.

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It is, the author thinks, a matter of regret, that alterations of our constitution, should not be authorized to be submitted by the ordinary legislature whenever two-thirds, or other number beyond a bare majority, should think them necessary; without prohibiting the assemblage of a convention, whenever substantially and unequivocally required by the people. A provision like the above, such as is introduced into the constitution of the United States, is so well designed to save the community, from the hazard of submitting the whole frame of its fundamental law, to the ordeal, often so dangerous, of an unlimited convention. Indeed no sound and discreet community, should suffer itself to be cajoled or terrified into so perilous a political lottery, until the defects and mischiefs of the existing government; as well as their remedies are clearly, precisely, and generally stated and discussed.

This session closed the legislature functions under the old constitution; after having added six hundred and fifty laws to the statute book in eight years, rather more than eighty per annum. "Occasional observations having been made, with a view to convey an idea to the reader, of the character of the session acts, nothing more of the kind will be added here. Whovever attends to the subject, will be struck with the frequent changes in the courts, and in the execution laws; which, if it were possible, should be fixed and immutable. The observer of the legislative course under the constitution, can but be equally affected, by the frequent ocurrence of acts which violate private rights to real property, as well by their retro-active effects, as by vesting power in one or another, to sell lands belonging to infants, as well as those of adults, without their consent. *Relief*, also, of one kind or other, either to private individuals who should have been left to seek it in a court of law, or equity; or to public functionaries, who had violated the laws, and ran to the legislature to cover their ignorance or design from the consequences, by legalizing what was illegally done, makes a figure in the code; besides

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those acts of direct interference between creditor and debtor, by means of replevy, and otherwise: which taken together as a body of evidence, goes to prove great defects in the political morality of the law makers, and separately, furnishes precedents for every species of irregular and incorrect legislation. Not that there are no good laws; there are certainly many; for at different times, different moral and political feeling have prevailed: but so predominant has been the disposition to change, that but few acts have escaped its ignorance, its love, its rage, or its malice."

Such are the free criticisms of a scrutinizing observer of our laws.* The author does not pretend to sit in judgment upon a body of legislation, which neither his learning nor his experience qualifies him to perform: yet he has seen much within his own circumscribed sphere of remark, to justify this reproof of an experienced statesman. It is republished and commended to the attention of our future legislators, in the fond hope, that where the reproach upon our government is merited, they will exert themselves, until it is utterly removed from the proud escutcheon of Kentucky.

During the session just recounted,† a survey of the Kentucky river, from Frankfort to its mouth, by Martin Hawkins, was communicated to the legislature. It exhibited a fall of forty-nine feet and four inches, in an extent of four thousand five hundred and fifty yards; broken into eighteen different falls of unequal length. An estimate of the expense necessary to make each of them navigable, amounted to nine hundred and twenty dollars. At the same time it was suggested that ten thousand dollars would remove all obstructions to the navigation of the river, throughout its whole extent: and that there were persons ready to undertake the work, at a thousand dollars a year, and receive their pay in land, at fifty dollars a hundred acres. These proposals, tempting as they appear at this day, and particularly when the public lands of the State have been sold from forty to twenty dollars per hundred acres, were rejected.

On the first day of June, 1800, the new constitution went

* Humphrey Marshall, Esq. † Marshall 2, 317.

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into operation, "without even an emotion, much less commotion," as it has been rather quaintly remarked. It is at least evidence of a contented state of society, free from the agitations, which have so frequently and so painfully convulsed the State, and destroyed the harmony of its social intercourse. No better evidence of the public tranquillity can be given, than that the same Governor, who had presided over the Commonwealth under the old constitution, received the suffrages of the people for the same office, under the new frame of government. James Garrard was chosen Governor, and Alexander S. Bullitt, the old and respected President of the Senate, and of the convention, was elected Lieutenant Governor; an office which did not literally exist under the former constitution; though its provisional duty was to be discharged by the Speaker of the Senate, which is the only extraordinary duty of the existing Lieutenant Governor.

It has been remarked, that about this time the changes in the wealth and property of society in Kentucky began to be more strikingly obvious. The distance between the extremes of property became more marked. Such are the inevitable operations of unequal exertions, talents, and opportunities in any community; where industry and enterprise are, as they ought to be, free to exert themselves, and where they are secured in their acquisitions, when they have made them. Nor can there be a doctrine more fatal to the prosperity of well ordered society, than any outcry of aristocracy, which, under a false and pretended denunciation of wealth, whether directly or indirectly the reward of merit, undermines the security and the reputableness of property, which are the very roots of the greatest social blessings. No person is readier than the author, to disdain and despise the airs and liberties of the merely purse-proud; yet the proper object of contempt is, not the property, or its fruits, which they possess. They are consecrated by the laws and the eternal interests of civilized society, of which they form the life and value. But the true point of indignation, and the just mark of scorn is, the littleness of soul, which estimates man, who ought to be the rich epitome of mind and

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of virtues, below the money which he may, or may not have procured. The hue and cry of aristocracy against the rewards of industrious enterprise, or its descendants, ought to be suspected and frowned upon by an orderly and an intelligent people, who wish to preserve the foundations of the social fabric uninjured; and to maintain that decent and temperate love of property, without which, liberty would have little to struggle for, and less to enjoy. Yet the badge of aristocrat, which so easily fastens to a prosperous man, not too courteous in his manners, or remarkable for his conciliatory demeanor, soon consigns him to perpetual obscurity; it is the ostracism of Kentucky, perhaps of the United States, without any removal from the soil.

Difficulties now began to be felt in the want of a circulating medium, and the inadequacy of the exports of the State, to pay for its imports. Frequent as those complaints used to be in Kentucky, owing to her interior situation so remote from the market of her consumer, as well as from the supplies of her own consumption; they now ascended from the circles of private conversation into the grave communications of the executive magistrate to the legislature of the State. In the speech of the Governor, at the opening of the session of 1800, after complaining of the deficiencies in the public revenue, the governor attributes them and the public condition "*almost destitute of specie*," "to our local situation, but more especially to the nature and system of our trade." The remedies which he suggests for these evils will appear strange in this day of more enlightened political economy. "Nor can I," says the Governor, "discern any probable prospect of a change for the better, until our dependence on other countries is lessened, and until we supply those wants, which are indispensable, through channels, which will admit of an exchange of commodities, mutually advantageous to the parties." In another passage he says, "Policy and interest therefore invite us to turn our commercial views to this channel," meaning that of the Ohio, Mississippi, and their tributary streams. For this purpose, the Governor suggests the importance of "giving premiums on importations by

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the way of the Mississippi, as would at least call their attention," that is, the attention of the merchants, "to that essential channel of our foreign intercourse." The object was patriotic, the means of effecting it, any thing but wise or effectual. The main source of domestic embarrassment, was excessive consumption of foreign goods beyond the effectual demand; that is, the means to pay for them. Whether this merchandise had come by the way of New Orleans, or of Philadelphia, the domestic means of payment in Kentucky, must have been the same. A mere change in the channel of trade, without an increase of its profits, would have added no greater ability to the consumer of foreign goods to pay for them. A million of dollars invested in the produce of Kentucky, which might be exchanged in the ports of Louisiana, would have given no more additional resources to Kentucky, than if the same produce had been sold in New Orleans, and its proceeds converted into the merchandise of New York or Philadelphia. Could the investment have been more profitably made under the imperfect navigation of the time, at New Orleans, than in Philadelphia, the western merchant would have had a higher inducement, and a more powerful motive to effect it, than any legislative premiums which Kentucky could offer him. Eagle-eyed interest may be much more securely relied upon to keep awake, and to watch over its own welfare, than the most benevolent sages, that ever attempted the mischievous and impracticable task of aiding or superseding its vigilant offices.

Connected with these mistaken visions about our trade, was another error, which long haunted the public mind, and was, indeed, at the bottom of the former dissatisfaction. It was the drain of specie by our eastern trade. This was a topic of animated and frequent denunciation. In the troublesome and dangerous exportation of gold and silver, which the merchant always so gladly avoided whenever he could, the economists of Kentucky, like too many in older communities, saw the most pernicious subtraction of the public wealth. It has, indeed, taken long to convince the cabinets and legislatures of the world, nor is the work yet fully completed, that gold and silver,

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however truly valuable in themselves, are only so, for commercial purposes,—to effect the exchanges of society by measuring their value, and by intrinsic value to avoid the clumsy processes of circuitous barter. They come and go with all the valuables in the markets of the commercial world, which they so conveniently represent; and they are to be procured whenever and wherever a fair equivalent in market can be offered for them. No community need concern itself more with the supply of its gold and silver, than with its iron ware, (to use the illustration of the great master of political economy,*) or any other of its demands.

To be able to buy, or, in other words, to give an equivalent in market, is alone sufficient to obtain a supply under ordinary circumstances of trade. Let the laws compel the payment of all debts by honest and fair equivalents in gold and silver; and private interest will relieve the legislator from all his superfluous apprehensions about the supply of money, which he can only gratify by disregarding the natural laws of trade and of social intercourse.

No other event occurs, particularly interesting, until the year 1800; when the election for the fourth presidency came on. The principal antagonists were, the then incumbent, the elder Adams, and Thomas Jefferson, the respective favorites of the two great opposing parties of federalists and republicans, in the temporary and party sense of those exalted names. These denominations were synonymous with the advocates, and opponents, of the administration of President Adams. In Kentucky the latter were the great mass of the people with singular unanimity; they supported Mr. Jefferson with enthusiasm. The times were those of high wrought excitement; and the respective merits of France and of England were, on every occasion, interfering with the affections and the duties of Americans to their own country. Long since, these foreign partialities have, most happily for our countrymen, become absorbed in their own national attachments: never, it is most fervently hoped, will they be revived, to disgrace and to injure this republic. The

* Smith's Wealth of Nations.

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plurality of the electoral votes was in favor of Messrs. Jefferson and Burr; and after a convulsive struggle of parties, which threatened to suspend the constitution, or involve the country in civil war, a majority was given to Mr. Jefferson for President, to the most lively delight of his friends. American feelings were, on this occasion, transported to an extravagance of sensibility, which is generally deemed more characteristic of the south of Europe, than of the stock of grave and staid old England. No part of the United States partook of these feelings of animated joy more deeply than Kentucky. Her character has ever been impetuous and ardent; and when her favorite statesman was at length elevated to the chief magistracy of the republic, her sensibilities gushed over with a fervor more allied to religious devotion, than to political joy.

Some peculiar circumstances contributed to this excessive triumph. Mr. Jefferson was a Virginian; and the Kentuckians had generally been Virginians. The new President had been the Governor of Virginia when it included Kentucky; he had ever been viewed as the decided friend of the western country; and he possessed the more mystical fame of a philosopher.

The first measures of President Jefferson's administration, which bore immediately on Kentucky, were, the repeal of the Circuit court system of the United States, and of the internal taxes.

No measure of the presidency was canvassed with greater ability and zeal, than this judiciary repeal; none trenched, in the opinion of able constitutional expositors, so palpably on the tenure of judicial office. Instead of this being during good behavior, as provided by the constitution, it became dependent upon the legislative existence of the office, whatever the official behavior might be. This construction sanctions the inconsistency, that a bare majority may remove a judge from office by repealing his office, although a majority of two thirds is required to remove him from that office for misbehavior. The country at large, and particularly Kentucky, have settled on the constitutional construction, which places the courts, with their judges, which are *inferior* to the Supreme court, at the discre-

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tion of the legislature; but reserves the Supreme court, with its judges, as independent of ordinary authority.

The law establishing a United States' Circuit court for Kentucky was repealed; and Judge M'Clung was also repealed out of office, in company with his judicial brethren.

Although distinct Circuit courts may have been premature at the time of their creation; yet, as a system, it has since been urgently called for, particularly in the western country. It was, however, a most unhappy and illiberal course of policy, to pass so radical a change in the fundamental organization of the government; at the close of an administration, which had incurred the national displeasure. This was aggravated by filling all the vacancies with members of the defeated party. If, then, the judiciary repeal were a violation of the constitution of the United States, the federal party may well be said to have provoked it, by their most unwarrantable and ill judged conduct.

It ought to be mentioned in this connection, that the opinion of one of the greatest jurists* in the United States, though not expressly announced, carries every implication, and supports every argument, against the *legislative* power over the offices of the judiciary when once established.

The repeal of the internal taxes relieved our interior agricultural country, ill able to command specie, from much irritating interference of excise officers; whose salaries in an extensive country like this Union, form a great drawback from the product of such taxes to the national treasury, and contributed much, to augment the patronage and influence of the Federal Executive. In thus relinquishing the favorite *spoils* of most popular favorites, Mr. Jefferson showed a magnanimity, and a disinterestedness, worthy of the highest commendation. Executive power requires to be sleeplessly watched.

The introduction of banking into this agricultural State, next calls for attention; a system of legislation, which, as it has been pursued, has been productive of the most fearful mischiefs; and no where more deplorably, than in this State.

* Judge Story, in his most dignified and able Commentary on the Constitution of the United States, sections 831, 832.

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Yet it was at first smuggled into Kentucky, and by a fraud upon her legislative understanding, it was foisted into the Commonwealth. An application was made to the legislature to incorporate an insurance company, for the purpose of insuring the produce of the State, on its passage to market, through the long and perilous channels of the western rivers, the petition was readily granted. But in the charter of incorporation, the company was authorized "to take and give bills, bonds, and obligations, in the course of their business; also to receive and pass them by assignment; and such of the notes as are payable to bearer, shall be negotiable and assignable by *delivery*." Under this pregnant clause, the bills issued by the company were made payable to bearer; and they became tantamount to bank bills. Thus indirectly was a bank forced upon our legislators, who, at that day, partook of the dread and antipathy to such monied instruments, which then particularly characterized the statesmen of Virginia. Too soon indeed for the solid and durable prosperity of both Kentucky and Virginia, they forgot these prepossessions.

This surreptitious bank was chartered until 1818, during which time it enjoyed the monstrous monopoly of insurance under the authority of Kentucky, without any equivalent to the State for the surrender of its legislative discretion. The fate of this institution, which may as well be recorded at once, was worthy of its birth; it began in fraud and ended in bankruptcy.

At this session took place the third radical change in the ordinary courts of the State. The District courts and the General court were abolished; and Circuit courts for each county were established in their place. The judges of the former, like the Quarter Session justices, and the judges of the court of Oyer and Terminer, of a former period, acquiesced in following the fate of their courts. To each of the Circuit judges were added two assistants, not learned in the law. The convenience of bringing the administration of justice home to every man's county, reconciled the people to this alteration; but the retention of the assistants unlearned in the law, was

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found, in so many instances, to impede the progress of business by producing conflictis with the presiding judge, in overruling or re-arguing his decisions, that the judicial assistants were, at length, most usefully abolished.

On no subject of legislation have the people of Kentucky suffered more egregiously, than in the organization of their courts. The inadequacy of judicial salary has kept the judges not only below the professional compensation of the bar; but in all the wealthy counties, below the compensation of their own clerks. For the purposes of emolument, the clerkships of the courts are greatly more valuable than the salaries of the judges; and are more anxiously sought after, as objects of ambition. When shall the community feel as it ought to feel on this vital subject of government, that the administration of the law must depend upon the character of its administrators? The sublimest conceptions of the wisest and most benevolent legislators will be misapplied, in folly and injustice; when ignorance and incapacity are called to put them in force. If the people of Kentucky desire to have justice administered in all the light of learning and wisdom, amid their too abundant matter of litigation, they must pay the price for these high and rare endowments, which society has placed upon them in other situations; the same price which is put upon these qualities, when exercised for the public service at the bar, or in any other arduous walk of life, must be given by the government. When, as in England, and in many of the elder States, the Bench shall have been made an object of honorable ambition, and a full equivalent for high and lucrative practice; then the judges will be where they ought to stand, at the head of the profession; and the masters, and not as they too often have been, the puppets of influential lawyers. Then the liberties and the property of society will, with legislative respect for the independence of the courts, be placed on a footing worthy of a free and enlightened Commonwealth.

In confirmation of these remarks, the author will subjoin the following expressive picture of judicial administration under

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the first organization of the circuit courts, now however, most essentially amended.

"The practice which ensued under this system, had the effect to retard business, and in other respects proved pernicious. If the knowing judge happened to desire to rule his right and left hand man, and they were willing to be ruled, they sanctioned his opinions, and matters went on smoothly, tardy as might be their pace—it was rather, however, the cause of despatch. But when the assistants conceited they knew as much, or more, than their president, they were commonly refractory, and kept him in check: he being in general a resident in town, or an itinerant on his circuit, or a lodger in town, where the court was held, could attend early, or late; while his brother judges, residing in most cases in the country, remained at home for breakfast; then came to town, put up their horses at the tavern, took a round of smoking or chatting; then to court; and if any thing had been done, were ready to rehear, and confirm, or reverse it. For it is to be remembered, that the presiding, or "circuit judge," could hold court in the absence of his assistants; subject, nevertheless, to have every thing he did undone by them: and which soon taught him to do nothing when they were away, unless he had previously obtained the control over one of them at least.

"And they, sure of their two dollars a day, if their names were entered on the minute book, took special care to have each, his own, entered at some time in the day. In the long days they did more—but again and again, has the court adjourned to dinner, before a single jury cause was opened; and probably, a common case, occupied the day. In the populous counties, such was the accumulation of business, and the tardiness of proceedings, that causes were years on the docket, which, in a correct course of adjudication should have been tried at the term next after the process was returned executed. Thus suitors were compelled to attend from term to term, and from day to day, during each term for years, before they could obtain a trial at law: while the complainant in chancery was still more unfortunate, although in general, the suits being

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about land titles, were the most important: and demanding the first attention, were put off to the last. A single statement of a common fact, will illustrate this narrative. In these large counties the courts, for years did not clear their dockets; while it often happened, that the causes set for the first day, were not finished for two or three days; and one set for the third, might be taken up the sixth day, &c. &c.: the parties and witnesses bound the while to attendance.

"Thus have the people of Kentucky been compelled to sue for, seek after justice; and wait upon courts, often changed, inadequately filled, and frequently unnecessarily dilatory, at an expense and loss of time, which few other people could have afforded; and fewer still, it is probable, would have borne without ascertaining the cause and correcting it, in this legislation; the ostensible source of the evil."

CHAPTER XVIII.

Suspension of Deposite at New Orleans—Cession of Louisiana to France—Louisiana Negotiation—Cession to the United States—Newspaper Reports of Adjudications in the Court of Appeals—Second Election of President Jefferson—Colonel Burr—Spanish Difficulties on the Sabine—Return of Burr to the West—Trials—Apprehension—Sebastian's Spanish Pension—Judge Innes—President Madison—Governor Scott—Foreign Depredations—Embargo—Replevy—Battle of Tippecanoe—Death of Daviess.

In the course of 1802, the tranquillity of the whole western country was greatly disturbed by the suspension of the right of deposite for American trade at New Orleans, which had been stipulated by Spain, in the treaty of 1795, for three years. At the same time, she bound herself to furnish some "equivalent establishment on another part of the banks of the Mississippi," should that at New Orleans, on the expiration of the three years, be withheld. This act of the Spanish Intendant, Morales, at New Orleans, and violation of treaty on so sensitive a subject, as the navigation of the Mississippi, produced the highest indignation throughout the United States; but in the western country, the public mind, in the language of Mr. Jefferson's letter to Mr. Monroe, was thrown into a fever

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"The excitement was redoubled" when the public heard of the cession of Louisiana to France. These measures were inevitably coupled in the public apprehension. On the meeting of Congress in 1802, a vigorous effort was made in the Senate of the United States to authorize the President to take immediate possession of the island of New Orleans and the adjacent territories. This was however lost, and the Executive instantly took measures to procure a cession of New Orleans, and of West and East Florida. To promote this negotiation Congress, at the recommendation of the Executive, appropriated two millions of dollars. Such were the expectations in the United States, when Mr. Monroe was appointed Minister to France, to enter on this delicate and important negotiation.

President Jefferson, with a happy regard for the public feelings, apprized Governor Garrard of all his measures in an affair* so profoundly interesting to Kentucky. Of this sentiment the legislature most promptly informed the authorities of the United States, on the earliest news of the occlusion, as Mr. Jefferson termed it, of New Orleans.

When Mr. Monroe arrived at Paris, he found that the first Consul of France, clearly foreseeing the loss of Louisiana, in the impending hostilities with Great Britain, had determined to sell this magnificent province to the United States. He is said to have expressed himself in these words: "I renounce it with the greatest regret. To attempt obstinately to retain it would be folly." Thus decisive were the resolutions of this pre-eminent military chief. The French negotiator was directed to ask fifty millions of francs, as his ultimatum, or something less than ten millions of dollars; he asked eighty, and Mr. Livingston, before the arrival of Mr. Monroe, would not go beyond thirty millions, or nearly six millions of dollars. But when sober deliberation enjoyed a few moments' respite, from the astonishment with which the American mission was overwhelmed, at the extraordinary offer of an empire, when they had doubted whether they could obtain one of its towns, the negotiation no longer faltered about terms. Neither obscure

* Marbois' History of Louisiana, p. 213.

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boundaries,* which no historical documents could explain, nor fifty additional millions of francs, formed any obstacle. On the 30th of April, 1803, the treaties were all signed, which, realizing the boundaries of the ancient charters, granted by the British monarchs to their American colonies, extended the United States "from sea to sea." By a brilliant negotiation, and a coincidence of fortunate circumstances in the affairs of nations, that only occur in a series of centuries, Louisiana was purchased for fifteen millions of dollars, or 80,000,000 of francs; and the United States enlarged to 2,000,000 of square miles.

At this time, it is curious to look back at the alarm with which the re-occupation of Louisiana by its ancient owners, excited throughout the United States. Yet it would seem, that a power so little naval, need not have produced such apprehension. True, the French would have made a more formidable neighbor than the indolent and unenterprising Spaniards; but they would by the same reasoning, have made more valuable customers, and a more profitable trade might have been carried on with Louisiana. These speculations are, most happily for the fortunes of America, superseded by the acquisition of the country, which the sagacity of Bonaparte, and the policy of Jefferson threw into each others' hands. But had not this unexampled concurrence of views appeared, in parties which might with every calculation of ordinary probability, have been expected to conflict with one another; President Jefferson was prepared to go to war for the great and solid interests of his country. Pacific and attached to France, as he was supposed to be, he was ready to unite our arms with those of Great Britain for this paramount object. Had the disposition of the French government appeared hostile, in the opinion of our ministers, they were instructed to hold † "such communications with the British government as will sound its dispositions, and invite its concurrence in the war."

In ‡ confirmation of the same views, the President wrote to Mr. Livingston, "the day that France takes possession of New

* M. Marbois relates, that Bonaparte remarked on this point, "if an obscurity did not already exist, it would, perhaps, be good policy to put one there."—p. 286.

† Idem. p. 446. ‡ Idem. p. 229.

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Orleans, fixes the sentence which is to restrain her for ever within her low water mark. It seals the union of two nations who, in conjunction, can maintain the possession of the ocean. From that moment we must marry ourselves to the British fleet and nation. We must turn all our attention to a maritime force, for which our resources place us on very high ground; and having formed and connected together a power, which may render re-inforcements of her settlements here impossible to France, make the first cannon, which shall be fired in Europe, the signal for tearing up any settlement she may have made, and for holding the two continents of America in sequestration for the common purposes of the united *British* and *American* nations." These far-sighted and sagacious anticipations, which Mr. Jefferson, with his characteristic foresight, was so competent to indulge, were happily rendered unnecessary, as has been mentioned by this most propitious treaty. So "noble a bargain," in the language of Talleyrand, almost defies belief if it had not with all its splendor of event, have become sober history. Congress, with unimportant opposition, ratified their treaties, and thus sealed higher destinies for their country, than had ever flashed across the most sanguine fancy of American patriots. Nor does the experience of the confederacy so far justify the apprehension, that the capacity of our most admirable federation, is not adapted to the great expansion provided by the acquisition of Louisiana. Had Mr. Jefferson effected nothing more for his country, in his exalted career of public duty, it is sufficient to place him and all the companions of such high counsels, in the proudest niche in the American Pantheon, dedicated to civil honors and patriot statesmen.

On the 20th December, 1803, William C. Claiborne, Governor of the Mississippi Territory, and General Wilkinson received possession of the province of Louisiana, from the French commissioner, M. Loussat. Thus were new and incalculable commercial advantages opened to Kentucky, in common with the whole country; advantages, the want of which, more than once seemed to threaten the stability of the Union. Now a career of every kind of profitable exchange, unobstructed

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by a foreign power, from the heads of the Ohio, the Mississippi, and the Missouri, to the ocean, was laid open to the industry, and the enterprise of the west. Under the smiles of this golden commerce, aided by the mighty powers of Fulton's almost magic invention, the wilderness is indeed blossoming as the rose, and countless regions, and innumerable millions are subjecting to the mild and glorious sway of religion, liberty and learning.

How fearful is the moral responsibility of our countrymen, lavishly endowed as they are, with the bounties of Divine Providence; that they execute the high trust confided to them, for the good of mankind, in faith and in honesty! How bitter will be the maledictions of future generations, if they shall pervert these fair and lovely benefactions of Divine goodness, and thus deprive posterity of their just and rightful expectations! It behooves every American, and more imperatively every inhabitant of this most highly favored west, that he should be deeply impressed with the great obligations he owes to futurity; to transmit the noble legacy of our freedom, and its glorious fruits unimpaired; and rather enriched by our efforts to increase the social happiness, and continue the improvement for long enduring ages.

The year 1803, is commemorated by the first public services of Henry Clay, in the government of the State. The history of the commonwealth owes her tribute of honor to one, whose discharge of the highest political trusts of the republic have since enrolled his name, indelibly among her first and most honored statesmen.

An ardent love of liberty, high intellect, and an oratory as brilliant and impetuous as his spirit is free and unfettered, have formed a halo of intellectual and moral glory around the great Kentuckian, as imperishable as the records of patriotism, of talent and eloquence in any age.

The sphere of Mr. Clay's activity, has generally been above the scenes of this history, yet his domestic services often form the subject of its humble pages. Kentucky is, indeed, well entitled to the honor of merits, exhibited in higher

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trusts than her own, for which she first selected this favorite son of her ambition.

Henry Clay was first elected a member of the House of Representatives of Kentucky, in the session of 1803, under most flattering circumstances.* It was during his absence at a watering place known as the Olympian Springs, in the county of Bath, that he was unexpectedly brought forward as a candidate, by his friends, and elected triumphantly.

At the gubernatorial election of 1804, Christopher Greenup succeeded governor Garrard, and he appointed John Rowan, since so honorably distinguished at the bar and in the legislative councils of his country, as Secretary of State.

In the session acts of this year, is one conferring a pension on Clarinda Allington. "She had been a prisoner with the Cherokee Indians, and, as she alleged, compelled by a chief to marry him." This lady had three children by her marriage, when she escaped from the Indian towns, and took refuge in Kentucky. On application to the General Assembly for assistance, she was allowed an annuity for three years." This is remarkable as the first instance of a pension under the government of Kentucky.

An act to incorporate the Ohio Canal Company originated at this time, although it produced no effect; the promulgation of the opinions of the court of Appeals was likewise provided for at this session, by directing the Clerk of the court to furnish the public printer with a copy of them for publication. They were therefore newspaper reports at first, though they soon assumed a more dignified and durable shape.

On the 4th of March, 1805, the second term of Mr. Jefferson's presidency commenced, after an election of unanimity, unexampled since the government of the great Washington. Out of one hundred and seventy-five electoral votes, he received one hundred and sixty-two. This was the first presidential election after the amendment of the constitution, which required the electors to distinguish the person voted for as President, and the one voted for as Vice President.

* Biography of Henry Clay, by George D. Prentice, Esq.—page 25.

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During the summer of this year, Colonel Burr, the late Vice President, who by his intrigues of over-reaching ambition had lost the confidence of the country, visited Kentucky; and after making some stay at Frankfort, in a retired manner, proceeded on his way through all the principal points of the western country, from St. Louis to New Orleans. In the ensuing August, Colonel Burr returned to Lexington, in Kentucky, on his way eastward of the mountains. The desperate consequences of these visits, will appear in the succeeding year. They may, without much violence, be compared to Milton's immortal fancy of the visits of Lucifer to the newly created Eden; before he planned his machinations against the parents of our race.

Among the simple and effective amendments of judicial proceedings, for the accommodation of the people, may be ranked an act of this session; "providing a summary mode of recovering debts on bond or note." It is usually termed the petition and summons law. By this law, a simple form of declaration, in which the note or bond evidencing the debt, was to be substantially set out; with an averment that the debt remained unpaid; if the note had been assigned, that also was to be stated, and judgment prayed. This was to be lodged with the clerk of the proper court; who issued a summons, to which he annexed a copy of the complaint, for the defendant, which were to be delivered ten days before the court met; and in that case, judgment was to be rendered on the third day of the court; unless it should be suspended by good cause shown to the court, and an order obtained for that purpose: bail was, however, not to be taken under this act.

The year 1806, was one of foreign and domestic menace. On the Sabine, the Spanish forces had advanced to the eastern side of that stream, when General Wilkinson, with his troops, was ordered to repel them. While the troops are left on the Mexican frontier, the movements of Colonel Burr, which subsequently had such an influence on these military measures, will be resumed.

In the summer of 1806, this gentleman, whose rapid and

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mysterious changes of place seemed like the agitations of some evil spirit, ill at peace with itself, again appeared in the western country. His head quarters seem to have been the ill fated mansion of Mr. Blannerhassett, on the island bearing his name, in the Ohio river. Rumours of desperate schemes and mad enterprises increased rapidly upon one another. Boats were known to be building in the States of Kentucky and Ohio in considerable numbers; provisions were contracted for; and numbers of the young and the ardent, with some of graver character, were engaged in some military expedition, whose character could not be precisely ascertained. Many asserted that the expedition was against Mexico, and was undertaken with the connivance, if not with the concurrence of the President of the United States.* Artifices to produce this impression were afterwards known to have been employed, to inveigle those whose principles could not otherwise be overpowered. The difficulties of the United States with Spain confirmed the above representations. These various kinds of proof were communicated by Joseph H. Daviess, the distinguished attorney for the United States, to the President, early in January of this year. They were necessarily limited, at that time, to general probabilities and presumptions; and the President desired further particulars, and the names of the persons concerned in the unlawful enterprise.

It, indeed, seems, that it was not until the communications of Burr, through Samuel Swartwout, to Wilkinson, in his camp at Natchitoches, and forwarded to President Jefferson; that the latter had exact intelligence of the plan, or the parties. This letter was dated at Philadelphia, on the 29th of July, 1806; but was not delivered, (owing to Wilkinson's rapid change of movements from St. Louis to Natchitoches, where the messenger followed him,) until the 8th of the ensuing October. Still the letter was couched in such mystified and obscure language, as to bear no precise interpretation, without the verbal explanations of the bearer, to which Wilkinson was referred. It announced the enterprise in these dark terms: "I (Aaron Burr)

* Jefferson's Correspondence.

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have obtained funds, and have actually commenced the enterprise. Detachments from different points, under different pretences, will rendezvous on Ohio, 1st November—every thing, internal and external, favors views: protection of England is secured: T. (meaning the gallant and faithful Truxton,) is going to Jamaica, to arrange with the admiral on that station; it will meet on the Miss.—England.—Navy of the U. S. are ready to join, and final orders are given to my friends and followers: it will be a host of choice spirits. Wilkinson shall be second to Burr only: Wilkinson shall dictate the rank and promotion of his officers—Burr will proceed westward 1st August, never to return." In another part of the letter he writes:—"Already are orders to the contractors given, to forward six months' provisions to points Wilkinson may name: this shall not be used until the last moment, and then under proper injunctions: the project is brought to the point so long desired. Burr guaranties the result with his life and *honor*, with the lives, the *honor*, the fortunes of hundreds, the *best blood* of our country. Burr's plan of operations is, to move down rapidly from the Falls on the 15th November, with the first 500 or 1,000 men, in light boats, now constructing for that purpose, to be at Natchez between the 5th and 15th December; there to meet Wilkinson; there to determine whether it will be expedient in the first instance to seize on Baton Rouge!"* This letter contains the most explicit details from Burr himself, in writing, destitute, as it no doubt purposely was left, of clear meaning, independent of other circumstances. To General Eaton, however, in the winter of 1805–6, "Aaron Burr signified that he was organizing a military expedition, to be moved against the Spanish provinces on the southwestern frontiers of the United States."† This was represented to be "under the authority of the general government." In additional conversations, he "laid open his project of revolutionizing the territory west of the Alleghaney, and establishing an independent empire there: New Orleans to be the capital, and he himself to be the chief: organizing a military force on the waters of the Missis-

* Wilkinson's Memoirs, 2 vol., p. 216. † Burr's Trial, p. 474.

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sippi, and carrying conquest to Mexico." Other projects of revolutionizing the eastern states, and overthrowing the popular government, were likewise communicated; but they appear to be so extravagant, as to imply a state of mind little short of insanity. Well might Mr. Jefferson tell General Eaton, when he communicated a project "of an insurrection, if not a revolution, on the waters of the Mississippi," that "he had too much confidence in the information, the integrity, and attachment to the Union, of the citizens of that country, to admit any apprehensions of that kind." When the mind soberly reflects on the intrinsic impracticability of such a scheme; the utter absurdity of supposing that the solid sense, the high spirit, and devotedness to liberty in the western country generally, or indeed in any other portion of this noble republic, could be base and degraded enough to enslave themselves, to a discarded public officer, like Aaron Burr, with all his mystery and intrigue; it seems too palpably absurd for admission into any sound mind. These projects were enlarged upon in the oral conferences between Mr. Swartwout and General Wilkinson, so as to represent that "Colonel Burr, with the support of a powerful association extending from New York to New Orleans, was levying an armed body of 7,000 men from the state of New York and the western states and territories, with a view to carry an expedition to the Mexican territories."

Moreover this emissary stated to General Wilkinson on enquiry, that this territory, (meaning it is to be presumed the territory of Louisiana, where Swartwout then was,) would be revolutionized, where the people were ready to join; and that there would be some *seizing*, he supposed, at New Orleans."

Anterior to these developments, Burr as has been intimated, had returned to Kentucky in August, 1806. Here he effected the negotiation of bills of exchange, to the amount of $25,000, through the Kentucky insurance company; these notes were afterwards known to have been paid for tavern expenses at Washington city, by some of the associates of Burr, after the explosion of the scheme.

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Colonel Daviess, after having made the most laudable exertions to penetrate the mystery of Burr's plans, even by going to St. Louis,* where Wilkinson was Governor, to scrutinize the movements of the General; obtaining no instructions from the Executive, on the meeting of the District court of the United States, in November, 1806, made oath, "that he was informed, and did verily believe, that Aaron Burr for several months past hath been, and now is engaged, in preparing and setting on foot, and in providing and preparing the means for a military expedition and enterprise within this district, for the purpose of descending the Ohio and Mississippi therewith; and making war upon the subjects of the king of Spain." After having read this affidavit, the attorney added, "I have information, on which I can rely, that all the western territories are the next object of the scheme—and finally all the region of the Ohio, is calculated, as falling into the vortex of the newly proposed revolution."

The motion for process against Burr, was however overruled, as "unprecedented and illegal;" yet the daring intriguer hearing of the intended prosecution, had the politic audacity to present himself before the court, "and demand an investigation of his conduct, for which," as he said, "he was always ready, and therefore had attended." The attorney replied to this counterfeit of innocence, that he only wanted his witnesses to be ready for trial; which, after conversing with the marshall, he said, might be on Wednesday, the 11th of November. This day was then appointed for the meeting of a grand jury, and officers were despatched with subpœnas to different parts of Kentucky, as well as of Indiana.

On the assembly of the court, upon the stated day, amidst the most intense excitement, produced by the serious magnitude of the charge, and the former dignity of the accused; it was found, that a material witness, Davis Floyd, was absent, attending a meeting of the Indiana legislature, of

* Coupled with this attempt of Colonel Daviess, a pretended resignation of the latter was designedly published at Louisville, in order to decoy Wilkinson into more confidence; but the artifice was met by Wilkinson, shewing Daviess a letter from Kentucky, which disclosed the whole ruse de guerre. Wilkinson treated Daviess in his usual winning manner, gave him every information in his power, and extended every attention to his distinguished visitor.

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which he was a member. Upon this, the court discharged the grand jury. Immediately afterwards, Burr, accompanied by his counsel, Mr. Henry Clay and Mr. John Allen, came into court, and on learning the dismission of the jury, gravely asked the reason, and expressed his regret at the step. On being informed of the cause which had led to this result, he desired that the cause of the postponement should be entered of record; and also the reason of the non-attendance of Mr. Floyd. This was done with the consent of Colonel Daviess. The arch conspirator then addressed the people through the court by saying, that,* "the good people of Kentucky might, and he hoped they would, dismiss their fears for the present; that in fact there was no ground for them, whatever efforts had been made to excite them; that he had understood some bad been made to apprehend that he was pursuing means inimical to their peace—but they were misinformed, as they would find, if Mr. Attorney should ever get ready, and open his investigation—that in the mean time, they would be in no manner of danger from him; that he had to act on the defensive only; that he should expect another attack, and hold himself ready for it."

After the information that is now possessed, and which has been narrated out of the chronological order in which is was known, could professional impudence have been carried to a higher climax? During these proceedings, the conduct of this adroit and most insinuating man, is represented to have been "grave, polite and dignified." It required something of Roman sternness to withstand the blandishments of the winning and fascinating address of this extraordinary character. Those who saw him presiding in the Senate of the United States, and most particularly during the embarrassing trial of judge Chase, may estimate the graceful dignity, the polished decision and the silent firmness, which so strikingly characterized this modern Cataline.

Yet there was more than one man, beside the fearless Daviess, who had the firmness amidst the general delusion,

* Marshall, vol. 2, p. 397.

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to turn a deaf ear to the syren song of peace and of farming, which was so artfully sung by Colonel Burr. It was John Rowan, then acting as Secretary of State for Kentucky, and a member of Congress elect. He, at the desire of Mr. Burr, was asked to engage in his second defence, in conjunction with Mr. Clay. Mr. Rowan objected to it, on account of his late congressional election, which bound him as he thought, not to engage in a controversy, possibly involving fidelity to the general government. Mr. Clay, who had now also been elected a member of Congress, on reflection, concurred in this opinion; and asked the advice of Mr. J. Rowan. The latter candidly concurred with Mr. Clay, in the impropriety of retiring from his professional engagement, at the existing stage; and suggested the expediency of requiring from Colonel Burr, a declaration upon his honor, that he was engaged in no schemes hostile to the peace or union of the country. The pledge was manfully required, and as treacherously and dishonorably given.

The reply of Mr. Burr, dated December 1st, was,* "I have no design, nor have I taken any measure to promote a dissolution of the Union, or a separation of any one or more States from the residue. I have neither published a line on this subject, nor has any one, through my agency or with my knowledge. I have no design to intermeddle with the government, or to disturb the tranquillity of the United States, nor of its territories, or any part of them. I have neither issued, nor signed, nor promised a commission to any person, for any purpose. I do not own a musket, nor bayonet, nor any single article of military stores, nor does any person for me, by my authority, or my knowledge. My views have been explained to, and approved by, several of the principal officers of government, and, I believe are well understood by the administration, and seen by it with complacency; they are such as every *man of honor and every good citizen* must approve. Considering the high station you now fill in our national councils, I have thought these ex-

* Prentice's Biography of H. Clay, p. 33

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planations proper, as well to counteract the chimerical tales, which malevolent persons have industriously circulated, as to satisfy you that you have not espoused the cause of a man in any way unfriendly to the laws, the government or the interests of his country."

Perfidious as these assurances were, they sheltered Mr. Clay from all animadversion on his professional defence of Burr. On a subsequent occasion, Mr. Rowan had an interview with Colonel Burr, when the latter attempting to remove some objections which were understood to be felt by the former to engaging in his defence, Mr. Rowan arrested this strain of remark, by observing, that "he had been taught from early childhood not to reason on subjects which his feelings in the first instance condemned."

Still, for a time, was guilt, dressed in the trappings of former dignity, destined to triumph over the zeal of Daviess, which might well have been more openly imitated by the President of the United States and the Governor of Kentucky. Obscure as the testimony might be, the warning of a proclamation did not require the most precise intelligence; and yet its solemn voice might have arrested the timid, confirmed the wavering, and animated the good citizen. To show how strong the reaction of public sympathy was, owing to the failure of these premature, though patriotic attempts to punish the guilty, the following paragraph is selected from the Palladium, the official paper of that day: "Colonel Burr, throughout this business, has evinced an *earnest* desire for a full and speedy investigation; free from irritation or emotion; he excited the strongest sensation of respect and friendship in the breast of every person present." On the 2d of December, another grand jury was assembled, by order of the District judge, at the instance of the attorney for the United States. Indictments were laid before it against John Adair and Aaron Burr, for instituting unlawful expeditions against the dominions of the King of Spain; but the jury, "having carefully examined and scrutinized all the testimony which has come before them," said, "there has been" none "which does in the *smallest degree* criminate either of

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the above persons; nor can we, from all the enquiries and investigations on the subject, discover that any thing improper, or injurious to the interest of the government of the United States, or contrary to the laws thereof, is designed or contemplated by either of them."

This decision of the grand jury was received by a burst of applause from the spectators; so intense was the popular sympathy for Burr. Thus did the wily arts of this consummate intriguer hoodwink, not only confiding friends, but the judicial tribunals of the country; and convert what should have been the instruments of his detection and punishment, into trumpets of praise and vehicles of confidence, in his treachery and in his treason.

A public ball was given in honor of Burr's triumph; which provoked another in honor of the Union and Colonel Daviess, for the consolation of the intrepid officer.

While this judicial farce was acting at Frankfort, and that unavoidably too, after submitting the indictments to the jury, the President's proclamation had been issued, and was on the road; to arouse the people of the western country from the stupor produced by the Machiavelian arts of the consummate deceiver. On the 27th of November, the proclamation was published; and on the 18th of December was known at Frankfort. On the 2d of the same month, Governor Tiffin, of Ohio, at the suggestion of Mr. Graham, (a gentleman deputed by the President of the United States to investigate this desperate conspiracy, and bring its agents to punishment,) submitted the subject to the legislature of that enterprising State. This body, with most patriotic promptitude, passed an act arming the government with powers adequate to the emergency. They were energetically put into execution; and a flotilla of ten boats, loaded with provisions, was seized and secured in the Muskingum river. On the 16th, the persevering Daviess, foiled as he had been in all his legal efforts to arrest this conspiracy, still not despairing in his patriotic course, wrote the Governor from Louisville, communicating the passage at that place of Blannerhassett, with eight flat boats and three keel

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boats, having some boxes of arms and ammunition on board, and some men. On the *confidential* communication of this letter, the legislature resolved that the Governor "be, and he is hereby requested to use, with all possible expedition, the means within his power to execute the duties required by the proclamation of the President of the United States, bearing date the 27th November last." A similar application of the presidential agent, to the legislature of Kentucky, procured an extraordinary act to "prevent unlawful enterprises," on the 23d December. Under this law, measures were immediately taken to order out portions of the militia; but before they assembled at their posts, all the boats of Colonel Burr, not intercepted by the authorities of the State of Ohio, effected their passage to the mouth of Cumberland. There the guilty spirits, disconcerted by the late, but unexpected vigor of the state governments, assembled with Colonel Burr, to brood over their blasted hopes of aggrandizement, on the ruins of their country.

"On the 22d of December, Burr descended the Cumberland river, from Nashville, with two boats of accommodation merely." On reaching Bayou Pierre, in the Mississippi territory, he surrendered himself to the civil authority.

After this, he attempted to flee into Florida; but on being intercepted by the military force, he was conveyed to Richmond, Virginia, on the 26th of March, 1807. Legal difficulties, arising from his absence at the military musters on Blannerhassett's island, shielded this high offender from the justice of the law of treason. But nothing could shield him from the withering blast of public indignation. Burr no longer lives the erect and fiery spirit, whom fine endowments and full cultivation had enabled to cope with Hamilton at his heyday. He rather walks the earth, a guilty thing, too ignoble for manly notice.

My young countrymen, when false and perverted ambition, when disappointments in public favor tempt you to wander from the paths of honor and devotion to your noble country, may you turn to the fate of Arnold and of Burr; and bless

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your God for the warning voice of their scowling examples. May they ever be viewed by the virtuous youth of our country, as beacons on the quicksands and rocks of political navigation, warning off the honest sailor.

Still there is a magnanimity in the heroic silence of Colonel Burr, amidst a host of revilers, which commands respect from those who detest his perverted ambition. He has had the severe trial of anticipating posterity, and of reading his "bad notoriety" in a nation's eyes. Yet while Colonel Burr has been lashed with worse than furies' whips of scorpions, through the land, and coupled, in the public mind, with the vilest of traitors; he has reviled not again; he has retaliated on nobody; no man can say of Colonel Burr, under the most trying scenes of life, and the agonies of a proud mind, he has betrayed the confidence reposed in him. He has preserved an unbroken silence for seven and twenty years; and whatever shall be his future disclosures; for the purpose of gratifying his personal feelings, they will as well have descended to the tomb with their author. Not that Colonel Burr may be indifferent to the award of history; while her present verdict, amidst the conflicting passions and excited feelings of the times, he has so stoically supported. To the admirers of the vulgar greatness displayed by military ascendency; it may be observed, that Colonel Burr is, at the worst, only what Cæsar and Cromwell might have been, under less auspicious fortunes. And those, whose principles can be so easily dazzled by the guilty splendor of success, as to see no criminality in its triumphs; may well extend a compassionate feeling for the unsuccessful aspirations of Colonel Burr after their favorite species of merit. No superiority of principle supports the fame of the first Cæsar, or the English Protector, that does not extend itself to Napoleon at St. Helena, or Aaron Burr* as a counsellor in the city of New York.

* A belief in the connection of General Wilkinson with Aaron Burr still adheres to the minds of many; they regard the latter as a traitor in a double sense,—first, to his country, and secondly, to his friend. Yet on this confessedly conjectural matter, it may be well to mention, in addition to the prompt and decisive measures which Wilkinson took to defeat the conspiracy; the slight and unconfiding manner Burr employed in speaking about Wilkinson.

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The objects of this mad enterprise might have succeeded in the restless, distempered masses of some European countries; but they were utterly desperate amid the steady attachment of a people for a government of their own choice and workmanship; and for their own protection.

The results of this conspiracy, with all the artful boastings of Burr, never amounted to more than from one, to four hundred persons. They finely illustrate the beautiful remark of Mr. Jefferson, that this is "the strongest government on earth"; "the only one where every man, at the command of the law, will repair to the standard of the law, as his own personal concern."

After the time which has elapsed since this audacious conspiracy, nothing further has transpired to determine whether its object was to dissever the Union, or to attack the Spanish provinces and plunder New-Orleans, as a means of executing either. Desperate and piratical as the whole scheme was, under either aspect, it may well be concluded; that the project of aggrandizement which promised most plunder, would have been most readily pursued. If the rich galleon, loaded with a nation's treasures, should have been too manfully guarded to justify attack, then the humble shallop would not have been too low for their rapacity.

The year 1806 was still fruitful in conspiracies and their developments. It was during the session of the legislature in 1806, that, on motion of Mr. M'Kee, and then of Mr John Pope, an inquiry was ordered into the conduct of judge

Although the former may have counted upon winning over Wilkinson to his schemes; yet to Gov. Harrison he spoke severely of Wilkinson's imprudence of talk, and incapacity to keep a secret. The Governor repelled all confidence, by expressing his belief in Colonel Burr's integrity and patriotism, as too high to admit of the truth of the suspicions afloat about his intentions.

At a subsequent period, Captain Wescott, a relation and emissary of Colonel Burr, was sent to make proposals; which Harrison again repelled, by declaring, that if Burr's schemes were inimical to the government of the United States, he would exert his utmost endeavors to have him hung. It has been suggested, that less mystery, and avoiding all military preparation, would have been more politic. Had Burr assembled his followers somewhere on the Mexican frontiers, even on the scene of his own suggestion—the Washita, a position might have been secured, from which he might have assailed either New Orleans, or the Spanish provinces, with fatal facility. Once lodged in those weak and valuable regions, Burr "might have played conqueror or Jacobin, or both, as might have best suited his purpose." Certainly a Spanish campaign would have attracted many of "the choice spirits above the dull pursuits of civil life;" and if Burr might not have anticipated Iturbide, the late Emperor of Mexico, in our own times; he would have, in all probability, effected the establishment of a military colony in our neighborhood.

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Sebastian. The resolution of inquiry was in the following words: "whereas, this House has been informed and given to understand that, Benjamin Sebastian, one of the judges of the court of Appeals of this Commonwealth, has been, during his continuance in office, a pensioner of the Spanish government. Wherefore, resolved, that a committee be appointed to inquire into the facts, and such other facts relating thereto, as may be deemed proper for investigation." A committee was accordingly appointed with full power "to send for persons, papers and records for their information." The disclosures produced by this committee established the disgraceful fact, that judge Sebastian, while a high judicial officer of Kentucky, had been for years in the receipt of a pension from the court of Spain of two thousand dollars a year. This amount had been received for him by Mr. Thomas Bulllitt, of Louisville, in 1801 and 1802: and a draft for the "pension," on the Spanish Governor of New Orleans, had been found by Mr. Charles Wilkins, in the papers of John A. Sitz, deceased, of Natchez. In the course of this investigation, judge Innes was summoned before the committee, and detailed of his own honorable frankness, the successive visits of Thomas Power, as the agent of the Baron De Carondelet, the governor of Louisiana, in 1795, and again in 1797; to negotiate for commercial privileges, and finally for forcible separation from the rest of the confederacy, with Messrs. Sebastian, Innes, Nicholas and Murray. On this evidence the previous statement of the Spanish conspiracy has been mainly founded. The conclusion of the committee was, that Judge Sebastian had been guilty as charged, and his conduct in doing so was "subversive of every duty he owed to the constituted authorities of our country, and highly derogatory to the character of Kentucky." This report was unanimously agreed to by the House. The judge having resigned, no further measures were taken.

The testimony in regard to judge Sebastian having fixed on him the odious charges of bribery and foreign pension, though confined to him alone, and though the offer of two hundred thousand dollars had been rejected by his high-minded asso

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ciates, Innes and Nicholas, yet it fastened an obloquy upon the latter gentleman, which in this instance he did not deserve, and which distressed him through the remainder of his life.

The memory of Innes and Nicholas is free from all suspicion of being tainted with foreign money; however, party feeling in times of high excitement, may have misled them in concealing from their own government those tamperings of a foreign one. Apprehensions of political consequences to Kentucky, should not, it is admitted, for a moment have been allowed to interfere with their direct duty, as citizens, and one, as an officer of the United States.

But it is only fair to let these distinguished and faithful public men speak for themselves. Their services, and those of judge Innes, so particularly laborious and devoted to his country, may well be allowed to extenuate a theoretical fault, which worked no practical mischief. "The reasons," says judge Innes, "why himself and Colonel Nicholas did not communicate the subject to the Executive of the United States, were these: 1st, it was known that neither of us approved of Mr. Adams' administration, and that we believed he kept a watchful eye over our actions; that the communication must depend upon his opinion of our veracity; and it would have the appearance of courting his favor; 2dly, that we both had reason, and did believe that the then administration were disposed, upon the slightest pretext, to send an army to this State, which we considered would be a grievance upon the people, and therefore declined making any communication on the subject, as we apprehended no danger from the Spanish government"*

At this session, the dissatisfaction of the country with the court of Appeals, led to the introduction of a resolution into the House of Representatives, expressive of the fact. This particularly reflected on the age of George Muter, the venerable chief justice, and offered a compensation for his retirement. The terms of the resolution, affected the feelings of the old gentleman so much, that he requested their withdrawal, and intimated his determinatian to resign. The withdrawal was

* Journal of 1806-7.

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made, and the high-minded and generous old man fulfilled his intimation, in a letter addressed to the Governor, December 9th, 1806. This resignation was followed by the appointment of Thomas Todd to the chief justiceship.

Nor can this signal instance of patriotic devotion be recorded, without paying a tribute of public gratitude to the disinterested sense of duty in an aged officer; thus in poverty resigning incontestable claims on the public treasury, and throwing himself on the justice of his country, when he was worn out in her service.

In February, 1807, Kentucky, at the instance of Henry Clay, then in the Senate of the United States, was erected, with the states of Ohio and Tennessee, into a seventh circuit, to be presided over by an additional judge of the Supreme court of the United States, whose office was created for that purpose. To this high judicial situation, Thomas Todd was appointed, who had recently been elected to the chief justiceship of Kentucky, and who had been the soul of business in the conventions and the House of Representatives of Kentucky, for twenty years.

In relation to the appointment of this old and faithful servant of Kentucky, there is this honorable fact, he received the office without any solicitation, on his part. When shall these golden times of the republic return, and the freemen of the United States again wait for offices to seek them, as the most fitting servants of the public, instead of seeking the offices, as so much private property. To test the public sentiment of the west, President Jefferson required the members from all the *three* western States, to make a recommendation of a suitable character to fill this high office, separately from each other, and likewise, to communicate their second choice. On the lists of each, Judge Todd was either first or second; a proud criterion of high estimation.

At this session of the legislature, resolutions were introduced by Mr. H. Marshall, violently condemning the conduct of judge Innes, in the conferences with Sebastian and Power, and recommending an inquiry "to be instituted into it by the constituted

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authorities;" "to which he may answer, and on which judgment may be pronounced." These resolutions produced a letter to the Speaker, from judge Innes, "informing the House that he had, during the last session of Congress, written to several members of that body, requesting through them, that an inquiry might be made into his conduct. From this, however, they dissuaded me, because in their judgment, there was no sufficient ground to justify, or authorize such an inquiry. Conscious, however, of my own innocence of any criminal intention or acts, and that in spite of all the malevolence of my enemies, upon a free examination, my life would only manifest errors of the head, and not of the heart; nothing is more desired by me than an investigation into my conduct, governed by temper, moderation and justice. The result of which investigation (to which I would invite your honorable body) will be as honorable to me, as mortifying to those who prosecuted me." After several days' discussion, Mr. Clay moved a substitute for the resolutions of Mr. Marshall in the following words: "Whereas the General Assembly did, at their last session, order transcripts of the evidence taken before the committee appointed to examine into the conduct of Benjamin Sebastian, to be transmitted to the President of the United States, and to the senators and representatives from this State, in Congress; and as the present assembly has entire confidence in the general administration, and in the Congress of the United States, among whose duties, is that of arraigning the public officer, or private citizen, who may have violated the constitution, or the laws of the Union; and whereas the legitimate objects, which call for the attention of this legislature, are themselves sufficiently important to require the exercise of all their wisdom and time, without engaging in pursuit of others, thereby consuming the public treasure, and the time of the representatives of the people, in investigating subjects not strictly within the sphere of their duty; and inasmuch as the expression of an opinion by the general assembly, upon the guilt or innocence of Harry Innes, Esq., in relation to certain charges made against him, would be a prejudication of his case—if in one way, would fix an indelible stigma upon the

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character of the judge, without the forms of trial, or judicial proceeding, and if in the other, might embarrass and prevent a free and full investigation into those charges: Wherefore,

"*Resolved by the General Assembly*, That it is improper in them to prescribe to Congress any course to be taken by that body, in relation to the said charges, or to indicate any opinion upon their truth or falsehood.

"*Resolved*, That the constitution and laws of the land, securing to each citizen, whether in or out of office, a fair and impartial trial, whether by impeachment or at common law, the example of a legislative body, before the commencement of any prosecution, expressing an opinion upon the guilt or innocence of an implicated individual, would tend to subvert the fundamental principles of justice."

This substitute, temperate and just as it appears to be, respectful to the sacred rights of every private citizen, to enjoy an impartial trial without the denunciation of influential bodies of men in office, was negatived. The resolutions of Mr. Marshall, deprived of their severely criminatory character, by an amendment of Mr. Blackburn, were then adopted by the House, and concurred in by the Senate. They were as follows:

"Inasmuch as it has been deemed expedient to express the public opinion on subjects of general concern, as the means of union among members of the same community, or as indications of the public will, serving as guides to public servants in their official conduct, and whereas from representations made to the General Assembly by the introduction of a resolution, and upon the application of Harry Innes, Esq., by letter directed to the Speaker of the House of Representatives, and by him laid before that House, praying an examination into the charges exhibited against him in said resolution, and from evidence to them exhibited, it appears that the said Harry Innes, Esq., while sole judge of the federal court for the Kentucky district, had knowledge of various intrigues, and secret negotiations having been at different times carried on by the agents and emissaries of a foreign government with citizens of this State, hostile to the peace and tranquillity of the Union; particularly in the case

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of the Baron de Carondelet, and in the case of Thomas Power, agents and emissaries of the king of Spain: and the said Harry Innes, Esq., possessing a complete knowledge of propositions having been made to himself and others, citizens of the western country, by the said Carondelet and Power, which had for their object the dismemberment of the Union; and having failed to communicate to the federal executive, or to take any measures of prevention, as by the duties of his office he was bound to do; and the conduct of the said Harry Innes, Esq., in this particular having been such as to excite great public discontent, and a suspicion that he participated in the intrigues and secret negotiations aforesaid:

"The legislature deem those circumstances in the conduct of the said Harry Innes, Esq., as furnishing an occasion of sufficient magnitude to interest the attention of the representatives of the people of Kentucky, and to call forth the expression of their opinion. Therefore,

"*Resolved by the Senate and House of Representatives*, That the conduct of the said Harry Innes, Esq., relative to the secret negotiations of the said Carondelet and Power, ought to be inquired into by the constituted authorities of the United States.

"*Also resolved*, That the Governor of this State be requested to transmit a copy of the foregoing resolutions to each of the representatives of this State in the Congress of the United States."

These resolutions were transmitted as desired by the legislature, and committed to a select committee in the House of Representatives of the United States, upon which, after a report of a committee by their chairman, Mr. John Rowan, nothing was done.*

If facts were necessary to be stated, after the transcripts of evidence, which had been already ordered to be communicated; constructions of those facts, and inferences of motives from them, by public bodies, cannot be too much reprehended. It would be throwing the weight of government, worse than the

* See Appendix.

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sword of Brennus, into the scales of justice, against private citizens.

The year 1808 brought along with it a change in the presidency. The great Jefferson, who had generally, with pre-eminent success, administered the affairs of the country; after serving two presidencies, abiding by the example of his first and illustrious predecessor, declined a re-election. Thus, it is to be hoped, limiting by the prescription of example, too sacred to be departed from; a limitation on the duration of this office, which is almost too powerful for the safety of the public liberties.

Mr. Madison succeeded President Jefferson in March, 1808: of all our statesmen, the most generally admired for the virtues and the chastity of his public character. With August, 1808, Governor Greenup's administration terminated, and Col. John Allen, of most amiable character and as eminent abilities, entered the canvass for the gubernatorial office, with Gen. Charles Scott. But the people of Kentucky have been too military a people themselves, and there are of course too many soldiers amongst them, not to feel an irresistible passion for those, who participated with them in the dangers of the "tented field." Accordingly a hero of the revolution, and a leader of various efficient expeditions against the Indian enemy, received a majority of votes, greater than all the votes given to his antagonist. On his election, he appointed Jesse Bledsoe Secretary of State, a gentleman highly distinguished at the bar, and in the legislative assemblies of his country. During this year our exasperating difficulties with Great Britain, and particularly the stinging insult to the Chesapeake frigate, induced a call upon the militia of the United States. The quota of Kentucky was five thousand and five.

These circumstances were noticed in the Governor's communication to the legislature, in the following terms. "The wanton and continued violation of our plainest rights by both Great Britain and France, who appear determined to sacrifice them alternately, as convenience or resentment, in their mutual and destructive conflicts for empire may suggest, seems to leave us

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but one alternative, to submit to be the passive instruments of their pleasure, at the expense of all we hold dear, or to make that resistance, which the God of nature has put into our power. On our own soil, if we are united and vigilant, we have nothing to fear." In regard to the operation of these foreign difficulties on our domestic interests, the Governor likewise remarks, that "it will also be with you, gentlemen, to say whether, from the" present posture of our public affairs, and the "afflicting privations experienced by all, in consequence of the necessary restraints imposed by the embargo; it will not be just nor politic to give debtors some respite by prolonging the time of replevy, or otherwise, in the recovery of debts due from them. From information this has been done in some of our sister States. It is a great impediment to legislative indulgence of this kind, that creditors, who may be delayed by such provisions, may also be debtors, and subject under the now existing laws, to be coerced for payment, while their means are thus withheld. For it is not presumable that any law on this subject can be made to act retrospectively."

In the course of the session, resolutions approbatory of the late administration of the general government, and especially of its policy with foreign powers, and the adoption of the embargo were offered by Mr. Scroggin; on discussion, an amendment was proposed by Mr. Clay. This produced a motion to strike out the matter offered by Mr. Clay, and insert the following:

"3d. That the United States of America have for several years experienced from the governments of Great Britain and of France, repeated usurpations on their sovereignty and independence, and manifold injuries to their rights of navigation and commerce; and that, having, in the spirit of amicable negotiation, employed in vain and exhausted the means of friendly adjustment, without obtaining from either of those governments the reparations due to their just claims for past injury, imposing in the mean time on themselves a rigorous embargo, the better to avoid new causes of irritation and of conflict, it now remains only, for these States, to continue this

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self-immolating restriction on their rights, submit their commerce and navigation, unarmed to the insults and depredations of the unfriendly belligerents, or authorizing the armament of merchant ships and their convoys, and disclaiming all intercourse with the aforesaid belligerents, so long as they continue their unjust decrees, orders, or aggressions, assert their national independence, *with the spirit of freemen*, in the practical exercise of their undoubted rights of navigation and commerce. In this choice of difficulties, difficulties insuperable to the eye of despondence and to the heart of timidity, there is one course open to honor and to patriotism; it is worthy the American character, it is suitable to the rights and to the dignity of a sovereign and independent nation: it is, to resume the practical exercise of those just rights of navigation and of commerce, which have been suspended, to the universal distress of the nation, and to defend them with all the energies of a people determined to be *free and independent.*

"4th. *Resolved*, That the act of Congress laying an embargo, and the supplements thereto, ought to be repealed with all practical despatch—that the commerce of the United States with friendly nations ought to be regulated, and her *bona fide* citizens authorized to arm their ships, and to sail under convoy for defence and protection, on their lawful voyages; abstaining from all intercourse with France and England, so long as they shall respectively continue their decrees, orders or aggressions; with the public avowal and national pledge on the part of the United States, that a resort to actual force by either, not authorized by the established law of nations, will be held and treated as a declaration of war against the United States.

"5th. *Resolved*, That the general government may rely on the support of this Commonwealth in the foregoing, and such other measures as may be deemed necessary and proper to protect the rights of the citizen, and maintain the honor and independence of the nation."

On the question being put, the vote stood sixty-four for Mr. Clay's resolutions, and one nay, (Mr. Marshall,) against them. This fact, he has the manly frankness to record. The

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substitute of Mr. Clay, which seemed unanimously to convey the sentiments of Kentucky, was as follows:—

"*Resolved*, That the administration of the general government since Thomas Jefferson has been elected to the office of president, has been wise, dignified and patriotic, and merits the approbation of the country.

"*Resolved*, That the embargo was a measure highly judicious, and the only honorable expedient to avoid war—whilst its direct tendency, besides annoying those who had rendered resort to it necessary, was to preserve our seamen and property exposed to the piratical depredations of foreign vessels.

"*Resolved*, That the general assembly of Kentucky would view with the utmost horror a proposition in any shape, to submit to the tributary exactions of Great Britain, as attempted to be enforced by her orders of council, or to acquiesce in the violation of neutral rights as manaced by the French decrees; and they pledge themselves to the general goverment to spend, if necessary, the last shilling, and exhaust the last drop of blood, in resisting these aggressions.

"*Resolved*, That whether war, a total non-intercourse, or a more rigid execution of the embargo system, be determined on, the general assembly, however they may regret the privations consequent on the occasion, will cordially approve and co-operate in enforcing the measure; for they are sensible, that in the present crisis of the nation, the alternatives are, a surrender of liberty and independence, or, a *bold and manly* resistance.

"*Resolved*, That Thomas Jefferson is entitled to the thanks of his country for the ability, uprightness and intelligence which he has displayed in the management, both of our foreign relations and domestic concerns.

"*Resolved*, That a copy of the foregoing resolutions be transmitted to the President of the United States, and to each of our senators and representatives in congress."

At this session, an act was passed, affecting very deeply the domestic relations of society; it was an act regulating

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divorces in this Commonwealth. By this act the process of granting divorces, was vested in the Circuit courts in the following cases, "in favor of a husband, where his wife shall have voluntarily left his bed and board, with intention of abandonment, for the space of three years; or when she shall have abandoned him and lived in adultery with another man or men; or shall have been condemned as a felon in any court of record within the United States: in favor of a wife, where a husband shall have left her, with the intention of abandonment, for the space of two years; or where he shall have abandoned her and lived in adultery with another woman or women; or shall have been condemned as a felon in any court of record within the United States; or when his treatment to her is so cruel, barbarous and inhuman, as actually to endanger her life." One excellent provision was annexed to this law, that the offending party should not be at liberty to marry again; nor should be released from the pains and penalties of persons entering into a second marriage, during the life of the first wife or husband.

An attempt, however, was made in vain, to remedy the oppressive delay in the trial of chancery suits; by repealing the law which had directed them to be placed on the docket after suits at law. It then directed that the court might act upon them at any day of the term. These important suits, which generally involve titles to land, or the payment of money, for which there was a judgment at law, and an injunction was now wanted, obtained but little advantage by the alteration. "They were seldom heard, however urgent might be the cases. It would not be extravagant to say, that there are no other suits on docket, which have been transferred from one generation to another, and after having passed from one lawyer to another, for ten, twelve, or fifteen years; there is not one at the bar, or in court, who know anything of their merits or demerits, except the clerks; they know that they charge three fees an-

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nually for continuances; and that hence, to them they have the virtue of perennial fountains of gain."*

These reproaches against the tardy and vexatious administration of justice, in mockery of a people's feelings and interests are, it is believed, no longer applicable to the same extent. Though much remains to be done by adequate salaries to command the highest talents and learning in the public service on the bench. Till then the people of Kentucky, will be insecure in one of the blessed fruits of good government; indeed almost its practical essence; the speedy administration of justice, by impartial and enlightened magistrates. Until then, the public will be worse served than private individuals.

The commencement of banking in Kentucky, is too important to the community, and involves too many vital interests of industry, and social prosperity, to be pretermitted. This branch of legislation first began intentionally upon the part of the legislature, at the session of 1806. Leave to bring in a bill for incorporating a bank, was asked by Mr. John Allen; and a committee of Messrs. Allen, Grundy, Pope, Hopkins, Ballinger and Cosby, reported the bill.

This measure was most providently resorted to, in order to husband the resources annually accruing to the State from the sale of its domain. It was most happily devised to place the principal of these accumulations of treasure, arising from this source, in a productive shape; and beyond the fearful hand of legislative waste.

It fixed the site of the principal bank at the seat of government; authorized a capital of one million of dollars, divided into ten thousand shares, of one hundred dollars each. Five thousand shares, were reserved for the use of the State. The legislature reserved the right of electing a president and six directors. This political majority, when times of excitement arose, drove the bank on the shoales of party, and ultimately shipwrecked the institution. The power of branching the bank, became a subject of local and

* Marshall 2, 464.

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party contention; and the influence of the legislature through its election of the majority of the directory was brought to bear upon the decision. The extension of the bank then ceased to be a mere fiscal or mercantile question, to be governed by the interests of the corporation; but was converted into one of political influence. The bank went into successful operation under the presidency of a distinguished and upright citizen, Robert Alexander, jr.

The difficulties in trade and business alluded to by the Governor in his address, arising from foreign depredations, and the remedy of the embargo adopted by our government, to avoid them, introduced the relief system, of prolonged replevy, into the legislation of Kentucky; though of ancient colonial adoption. An act was passed for the *relief* of debtors, which authorized a replevy of one year, upon giving bond and security on or before the day of sale under execution, to pay the debt within the year; but if the defendant failed to give the bond and security, then the estate was to be sold on a year's credit, the purchaser giving bond and security, to have the effect of a judgement, and it was rendered assignable.

It was at this session, the memorable act to compel the speedy adjustment of land claims, generally known as the seven years' limitation law, was passed. Mr. H. Marshall, introduced this measure, which, after every other anchor had failed before the legal storm, has saved the ship of state.* When after the decision of the Supreme court of the United States against our occupying claimant laws, no hope existed of arresting the endless curse of uncertainty, in the

* This measure was finally on the 5th of January, 1809, re-committed to a committee composed of Messrs. Clay, South, and H. Marshall, who reported it with an amendment, which was concurred in, and the bill ordered to be engrossed.

It received the approbation of the Governor on the 10th of February. This most important measure of peace and security to the land holders of Kentucky, and all the numerous classes of society, dependent upon them, had the cordial concurrence of Mr. Clay, although the bill was introduced by Mr. H. Marshall.

It was at this session that the act of the previous session, conferring a pension of three hundred dollars, on George Muter, late chief justice of the court of Appeals, on his resignation of his judicial situation, was attempted to be repealed. Governor Greenup most independently and feelingly opposed this violation of the faith of Kentucky, to an aged and devoted servant; and the bill was arrested in the Senate. But it was all in vain. The public suspicion and odium were excited against this paltry consideration for a substantial and fair contract; and the claims of public merit and private right, were alike disregarded at the next session, notwithstanding another Governor's veto.

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freeholds of the State; this most unexpected affirmation of our limitation law, came like an angel of peace, with healing on his wings, to console the vexed and agitated landholders of Kentucky.

It was in the case of Hawkins, et al. vs. Barney's lessees, formerly alluded to, that judge Johnson remarked that, "I perceive in the copy of Littell's laws, which has been sent to our chambers, some one* has had the perseverance to go over the legislation of Virginia, relating to the lands of Kentucky; whilst under her jurisdiction, and to mark the various senses to which the word rights, has been applied in the course of her legislation. It is curious to observe how numerous they are."

It is too grateful to the proper pride of Kentucky, harrassed as she has been by the authority of this high court, not to record its kind and honorable testimony to the correctness of our policy in this measure. It is emphatically an instance of the "laudatur a laudatis," of being honored by the exalted. The words of the court are:—"It is impossible to take any reasonable exception to the course of legislation pursued by Kentucky, on this subject. She has in fact literally complied with the compact in its most rigid construction; for she adopted the very statute of Virginia in the first instance, and literally gave to her citizens, the full benefit of twenty years to prosecute their suits, before she enacted the law now under consideration." It is due to the memory of a faithful public servant of Kentucky, the late Jeroboam Beauchamp, Esq., to mention, that he is said to have been among the first, who agitated this great quieting measure, though drafted in legal nicety by Humphrey Marshall, Esqr.

The historian would perhaps be culpable in omitting an enactment of this session, importing that the acts of the legislature should be in force from their passage, unless otherwise declared in the act.

The interval between the session of 1808–9 to that of 1811–12, does not seem to present much matter generally in

* Judge Rowan.

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teresting to the reader. This is a circumstance, unfortunately for society, too great a compliment to the times. For so incapable is history of penetrating into the interior of society, and of presenting a true picture of private feelings, and domestic scenes which constitute its principal happiness, that its topics are necessarily the striking and palpable acts of life. The crimes and the triumphs of war, or the desolations of disease, of famine and poverty, are too truly some of the clearest portraits of history. Its silence, then, is negative praise, in an extended sense. Sometimes, however, a civic wreath is to be twined from the success of some patriot statesman, or from the sacred labors of the philosopher and the philanthropist, in alleviating the evils of society. What matter of either kind existed at this time in Kentucky, our records are believed not to point out. True it is, the general history of the country rung with the outrages of France and England upon our seamen, upon our commerce, and in our ports. These properly belong to the recorder of higher scenes and spheres of interest beyond Kentucky. But it is due to the generous and ardent temper of the State, to declare, that removed as she is from the sea board, and few as are her sons, whose "march is on the mountain wave, and home upon the deep," she felt, with all her soul, for the insults and the wrongs of our seamen. Through this page of our national history, checkered with insults and their revenge, it is not permitted to the historian of Kentucky to wander. He has already been led in narrating the early annals of the State, to take a scope almost co-extensive with the western country. So connected and identified is the early story of our Commonwealth with the very rise and growth of the west; she has been, to so great a degree, the nursing mother, the focus of military and political movement among the younger sisters of this portion of the United States, that this course was unavoidable. What early field of battle has not been dyed with the blood of her sons? what section of the west has not been their honored grave? May these primitive and holy ties of consanguinity preserve their sacred influence upon the sympathy of the western people, when the

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storms of political contention, and the disappointments incident to all society, shall threaten to alienate the western brotherhood from one another. If our eastern brethren shall, in a moment of delusion, set at nought the sacred obligations and duties of our "union now and forever," may the western band preserve their loyalty, to win them back, and restore the holy alliance of American freemen.

In the more advanced days of our history, the share of Kentucky, in the heat and the burden of the day, becomes less exclusive. Other sisters, and other descendants from the Kentucky stock, come in for their ample and honorable share in the toils and the trials of the times. The State of Ohio, now in the van of western strength and enterprise, and the territories of Indiana, Illinois and Missouri, performed their full parts in the subsequent drama of north-western affairs. These are the fit topics for their own future historians; and the author scorns ungenerously to forestall labors for which they will be so much better fitted, by superior light and greater familiarity. Let then the historian of Indiana pourtray the course of events which, on that frontier, led to the Indian difficulties of 1811. Let him narrate the bloody battle of Tippecanoe, so destructive to the enemy, as well as to ourselves, in which her Barthlomew, her Decker, and her Parke distinguished themselves; and her Spencer, Warwick, McMahon and Berry, with White, of Illinois, died in her defence.

But while a sense of historical duty points out this course, the author cannot pass in silence the grave of our Daviess and Owen, at that hard fought field. When has a more powerful gush of feeling hallowed the death of a patriot soldier, than consecrated the memory of Joseph Hamilton Daviess. He was a man of the highest cast of intellect, the fit competitor of our Ciceronian Clay; but it was not on ordinary occasions that the mettle of his character was heated. Let a suitable occasion, however, present itself for exciting his high powers; and he bearded George Nicholas, when but a stripling, before the people of Mercer, in defence of the presidency of the elder Adams; and when a man, contested the palm with Henry

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Clay. Such, however, was the impression made upon the mind of an ardent admirer* of the latter gentleman's exalted power, in the case of Innes vs. Marshall, a case involving the most intense political interest through this Commonwealth. The devotion of Daviess to the honor of his country was chivalrous in the highest degree: he would serve that country in despite of her mistaken frowns. He served her for herself, and not for the vulgar love of the loaves and fishes she might have at her disposal.

Less eccentricity of manners, and more conciliation, would have, it is believed, enabled Colonel Daviess to have enriched his country by the practical fruits of his talents and his zeal. As it was, he lived and died under the political anathema of federalism, in the unfortunate days of its mistaken and misguided proscription. He was elected but once from the county of Mercer to the legislature of the State, and ever afterward lived under the ban for his federalism, or rather his opposition to the character and policy of President Jefferson's administration. He was the author of a book of "Reflections Military and Political," of a most sententious and abstract character; rather furnishing topics and heads for discussion, than full portraits of sentiment. Its ardor of devotion to the honor of his country, breathes almost audibly through its pages.

Of Colonel Owen, the honest, the conscientious and most respectable McAfee† says, "His character was that of a good citizen and a brave soldier"—no little praise in a republic, and in a warlike State. To these departed spirits must be added, Colonel Geiger, and Colonel Samuel Wells, who headed a small company of the gallant young men in the neighborhood of Louisville, including Croghan, O'Fallon, Shipp, Chum, and Edwards; who, with Meade and Captain Funk, all fleshed their arms for wider, though not nobler fields, under the same gallant and skillful Harrison.

Suffice it to say for our purpose, that the Indians experienced at the battle of Tippecanoe, fought at their own cabins, and at their own time, with about equal numbers, a heavier loss than

* Captain J. Jocitt, of Woodford. † Now Minister to Colombia.

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is known to have ever been inflicted upon this subtle and fugitive enemy, in any night attack, in our history. At the battle of the Maumee, fought in the day-time, under Wayne, the loss of the Indians was loosely estimated by himself, at double his own, which would make sixty-six. At Tippecanoe, thirty-eight warriors* were, with all the punctilious care of Indians for their dead, found on the battle field, besides those who were either buried in the town, or hid by their friends, and those who must have died of their wounds.† The loss of our own men was fearful enough; it amounted to sixty-two, and the total of killed and wounded, one hundred and eighty-eight. Yet it is only at such an expense, that an enemy, who can choose his time and place so perfectly at will, as the Indians, can be made to feel the superiority of artificial discipline over their own rude and ferocious warfare. The moral effect of this battle has scarcely ever been attended to; yet it electrified the nation; it drew the line immediately, broad and deep between the true lovers of their country, who could but sympathize with her triumphs, and the cavillers, whose patriotism was swallowed up in faction.

The author may not omit the resolution of the legislature of Kentucky, and the veteran Scott, on this battle.—"In December, the month after the battle, the legislature of Kentucky, on the motion of J. H. Hawkins, Esq., went into mourning for the loss of Colonel Daviess, Owen, and others, who had fallen at Tippecanoe; and in the same session, while this battle was the subject of much discussion, the following resolution, moved

* A Kickapoo deputation to Governor Harrison informed him, that the Indian loss, independent of the Potawatamies, was 57 killed and ten wounded. They likewise acknowledged, with, however, doubtful sincerity, that "the Indians never before sustained so severe a defeat, since their acquaintance with the whites." Dawson's Life of General Harrison, p. 254.—The immediate evacuation of their town, which they believed to be consecrated from the destruction of the whites by the presence of the Prophet, confirms the general vigor of the blow that they had received. The war chiefs were opposed to the attack; their plan was to pretend an acquiescence in the demands of the Governor, to assassinate him, and then attack the army in its consequent confusion. Two Winnebagoes had devoted themselves to this hideous patriotism. The prophet, more fortunately for us, prevailed upon them to make a night attack, under circumstances which could scarcely have been more favorable to the effect of our arms upon the enemy; though at so great an expense to our select corps. Governor Harrison had, however, determined not to return without the depredators, or hostages for the due observance of peace, had a battle not have taken place.

† An Indian interpreter reported to General W. Clark, that he saw 30 or 35 Kickapoos lying badly wounded, from the buck shot, the next February.

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by J. J. Crittenden, Esq., was adopted, with only two or three dissenting votes:—"*Resolved*, &c. That in the late campaign against the Indians on the Wabash, Governor W. H. Harrison has, in the opinion of this legislature, behaved like a hero, a patriot, and a general; and that for his cool, deliberate, skillful, and gallant conduct in the late battle of Tippecanoe, he well deserves the warmest thanks of the nation."*

"The veteran soldier, Governor Charles Scott, approved this resolution, which at once gave tone to the popularity of Harrison, effectually turning the tide in his favor, and reducing the clamor of his enemies to private murmurs."

CHAPTER XIX.

Second term of Governor Shelby—Petition of Daniel Boon—War with Great Britain—First detachment of Kentucky volunteers—Surrender of Detroit—Kentucky Brevet to General Harrison—Indian siege of fort Wayne—Description of fort Wayne—Expedition against the Indian towns—General Winchester appointed to command the North Western army—Nature of the country and the plan of the campaign—Expedition of General Hopkins—Expedition of Colonel Russell.

The term of service of the gallant and venerable Scott, now grew to a close; and the patriots of Kentucky turned their eyes with one accord, upon their first Governor, one of the heroes of King's Mountain, the brave and energetic Shelby. When solicited to become a candidate for this high office, he consented on the condition, so honorable to his love of country, not of indulgences suited to his advanced years and ancient services, but "provided the United States are involved in war."

No ordinary language can do justice to a patriotism which rests its consent to serve one's country, not on conditions of ease and enjoyment; but those of painful responsibility and arduous difficulty, when declining years might well in ordinary

* Colonel Daviess did not expect an attack, as represented by M'Afee, in general so well informed; for he "was out of humor on the night before the battle, because there was no prospect of a fight. He even made this just reflection, that the Indians would agree to "Harrison's terms, and would, as soon as the army was withdrawn, commence their depredations again." The Governor would not, however, have returned, it has been mentioned, without the depredators being given up, or hostages for them.

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men, have demanded repose. Isaac Shelby was triumphantly elected for the second time, Governor of Kentucky, in August, 1812: he chose Martin D. Hardin Secretary of State. This gentleman was the son of Col. John Hardin, of tried military excellence, and who had been perfidiously killed on a mission to the Indians.

During the session of the legislature of this year, a petition was presented to them, from the old pioneer of the west, Daniel Boone. It stated that, "unacquainted with the niceties of law, he did not intend to locate land for others; but to take up a reasonable portion of those which were good, for the use of himself and his posterity.

"To this end, he, with much struggling, after the country became some little settled, laid out the chief of his little property, to procure land warrants, and having raised about twenty thousand dollars, in paper money, with which he intended to purchase them: on his way from this country to Richmond, he was robbed of the whole, and left destitute of the means of procuring more. The few lands he afterwards was enabled to locate, were, through his ignorance, generally swallowed up and lost by better claims."

Under these circumstances, about 1794, Boone migrated "to the Spanish province of Upper Louisiana, under an assurance from the Governor, who resided at St. Louis, that ample portions of land should be given to him and his family." "Ten thousand acres of choice land were marked out, and given to him for his own use, on the Missouri; though the title was not completed, because that could only be done at New Orleans, as he was Syndic, or chief of the district of St. Charles, and honored by the kindness of his superior; his actual residence on the land given him, which was a usual condition of a Spanish grant, was dispensed with, in consequence of his public trust requiring his residence elsewhere." "When your memorialist came to lay his claim before the commissioners of land claims in that territory appointed by Congress, they were compelled, from the strict injunctions by which they were governed, to reject it. for want of cultivation and settlement. Thus your

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memorialist was left once more, at about the age of eighty, to be a wanderer in the world."

"Having no spot he can call his own, whereon to lay his bones; your memorialist has laid his case before Congress." He therefore prayed the legislature to support his application to Congress by their aid and influence.

This memorial was committed to Messrs. Y. Ewing, Hopkins, Caldwell, Southgate, Bullock and Walker. The report submitted to the House and adopted by all the branches of the government of Kentucky, is too honorable to its sensibility, and too grateful to the moral feelings of every generous bosom, to be be omitted. It is as follows:

"The legislature of Kentucky, taking into view the many eminent services rendered by Colonel Daniel Boone, in exploring and settling the western country; from which great advantages have resulted, not only to this State, but to his country in general; and that from circumstances over which he had no control—he is now reduced to poverty, not having, so far as appears, an acre of land out of the vast territory, he has been a great instrument in peopling. Believing also, that it is as unjust as it is impolitic, that useful enterprise and eminent services, should go unrewarded by a government, wherein merit confers the only distinction; and having sufficient reason to believe, that a grant of ten thousand acres of land, which he claims in Upper Louisiana, would have been confirmed to him by the Spanish government, had not the said territory passed by cession into the hands of the general government, Therefore

"*Resolved*, By the general assembly of the Commonwealth of Kentucky, That our senators and representatives in Congress, be requested, to make use of their exertions to procure a grant of land in the said territory, to said Boone, either to the said ten thousand acres, to which he appears to have an equitable claim, from the grounds set forth to this legislature, by way of confirmation, or to such other quantity, and in such place as shall be deemed most advisable, by way of donation.

"*Resolved*, That copies of these resolutions be transmitted

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by the Governor, to our senators and representatives in Congress, together with copies of the memorial of said Boone, to this legislature for their further information."

This interposition, so eminently due from the gratitude of Kentucky, was attended with the success its unparalled merits demanded. Congress, by an act of February 10th, 1814, fulfilled the gratitude of the western country, if not of the whole republic, to the simple, guileless spirit, united to keen sagacity and generous bravery, who had been one of the first explorers, and among the principal defenders of the infant fortunes of Kentucky, by granting Boone a thousand arpens of land*—†.

The Indian difficulties on the Indiana frontier, which produced the battle of Tippecanoe, just alluded to, were the prelude to the hostilities which were declared by the United States against Great Britain, on the 12th of June, 1812.

The Indians, as had ever been their practice in the wars between the European nations in their neighborhood, engaged as parties; and generally in favor of the British.

Several considerations might naturally produce this result; The British, as the weaker power, numerically, on this continent, and greatly more lavish in bounties to the Indians than the Americans, possessed a stronger hold upon their affections. The superior growth of the American settlements, and the long

* Land Law, United States—642.

† It is lamentable to relate, that Boone was obliged to surrender this late grant from the bounty of his country, to reimburse a Kentuckian who had purchased land of him. This had been lost in the mazes of Virginia land law, and the loss fell upon Boone as the warrantor of the title.

It may be added, Boone declared, that all his lands in Kentucky had "proved an injury to him, rather than a benefit, owing to the uncertainty of his locations," according to the rules of law. He abandoned Kentucky in despair of ever enjoying any land there, and declared, on the west side of the Mississippi, he would never recross it."

This early hunter was a plain gentlemanly man, of good memory, mild and equable; nor did he possess any of the slovenly habits of the back-woods character. He was indifferent in money matters, and left all his land papers in the hands of Colonel J. Floyd; on whose death he never enquired into them again. The love of the chase was "his ruling passion strong in death;" he adhered to it, till he was too weak to encounter its privations and hardships; when his friends had to resort to stratagems, to prevent an indulgence too dangerous for his advanced age and increased debility. He lived and died with a favorite child, passing his time among all his children who lived near him, in the State of Missouri.‡ Boone, though an intrepid and sagacious pioneer, never was a leading chief in the conquest and settlement of Kentucky. This is a popular mistake. George Rogers Clark was the great chief, by general consent, and after him, Floyd; John, Levi, and Robert Todd; B. Logan; Hardin; Christian and Whitley, were the military leaders. Colonel Christian had scarcely connected himself with Kentucky, when he was killed by the Indians: he had distinguished himself against the Indians on the Tennessee.

‡ Letter from Judge David Todd, of Missouri, to the author.

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and recent hostilities waged with our people, necessarily made us obnoxious to their fears and to their hate.

Through the operation of these causes, shortly after the commencement of the war with Great Britain, the Indians, from the lakes to the Mississippi, spread their devastations along the whole north-western frontier of the United States.

Kentucky was herself beyond their reach; she was covered by the panoply of her own children, who had emigrated to the new States on the north-west of the Ohio river. Her feelings, however, were as keenly alive to the sufferings of the frontier people, as when her own soil had been the theatre of the barbarous hostilities waged by the savages of North America.

The first efforts required of Kentucky in this second British war were, to detach fifteen hundred men from her quota of five thousand five hundred in the call of one hundred thousand from the confederacy. These, consisting of volunteers under Colonels John M. Scott, William Lewis, and John Allen; and with a regiment of regulars commanded by Samuel Wells, (the ancient friend of Colonel Floyd, in his defeat,) rendezvoused at Georgetown, on the 15th of August, 1812. Brigadier General John Payne took command of the brigade. The overflowing ardor of the people of Kentucky, swelled this body of troops to two thousand men, a regiment beyond the number required. They were composed of the very elite of our population, embracing several of the brightest ornaments of professional men, as well as the fairest promise among the young; the very flower of life, and of Kentucky. The troops proceeded to Newport, burning to avenge the wrongs of their country; and ambitiously anticipating a junction with General Hull, who was supposed to be at Malden or Detroit. Bitter indeed was their disappointment, and distressing their mortification, when on reaching the Ohio river, they learned the dastardly and disgraceful surrender of Detroit, and the Michigan Territory, by General Hull, to the British officer, General Brock.

With this surrender was coupled that of three fine Ohio regiments, under Colonels Findlay, McArthur, and Cass; who

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have since risen so high, and deservedly, in the honors of their country.

These regiments contained the same choice spirits of the solid and gallant people of Ohio, that had so eagerly rushed to the standard of their country in Kentucky. The loss of this fine corps of men crippled the military resources of the State, most materially, frontier as she was, in subsequent requisitions of the service.

The shock to the whole western country was electric indeed, the anticipation of Indian devastation was equalled by the mournful results. The western country put on its armor, the land bristled with the weapons of war, and military ardor animated all classes of people. The residue of the Kentucky quota was ordered into service, to be placed under General Harrison, who had command of all the troops in the Indiana and Illinois territories; and who now meditated a campaign against the Indians on the Illinois river.

This officer, a pupil of the energetic Wayne in '92, had distinguished himself gallantly and efficiently in the hard fought battle of Tippecanoe; he visited Frankfort, by desire of Governor Scott,* to make arrangements for the march of the Kentucky detachment. Letters were now received at the above mentioned place, as well as at Cincinnati, from the officers on duty under General Hull, expressive of their loss of confidence in their commander; and conveying "their apprehension of some fatal disaster from his miserable arrangements, and apparent imbecility and cowardice." These communications likewise conveyed the ardent wishes of the writers, that General Harrison should have the command; and it was equally the desire of the detachment marching to Detroit. Still there were considerable obstacles to regarding these recommendations; so strong in favor of an officer, who was to be placed over volunteers, at the opening of a war which was so popular in the west. Governor Harrison was not a citizen of Kentucky, much less an officer in her militia. The crisis, however, demanded energy; and Governor Scott,

* M'Afee, p. 107. Dawson's Life of Harrison, 272.

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though he had but two days of his gubernatorial term remaining, had been the veteran of too many fields, not to exert every resource required by the emergency.

In this embarrassment, he called upon his venerable fellow warrior and successor, Governor Shelby; his predecessor, Governor Greenup; Henry Clay, then Speaker of the House of Representatives; Judge Todd, of the Supreme court of the United States; Hon. R. M. Johnson, and General Samuel Hopkins, with several other distinguished citizens, for their advice in this delicate exercise of authority. "It was unanimously resolved to recommend to Governor Scott to give Harrison a brevet commission of Major General in the militia of Kentucky, and authorize him to take command of the detachment now marching to Detroit."

The recommendation was complied with; and General Harrison was appointed* to this important command, which he immediately assumed, to the most enthusiastic delight of the troops. In addition to this body of men, on the 25th of August, a corps of mounted men were called for, to march without delay. The Colonels Johnson, both Richard M. (since grown old in long, faithful, and honorable services to Kentucky and the United States,) and his elder brother, James, with Captain John Arnold, a veteran of '94, in a few days, raised overflowing companies of mounted riflemen; and joined the main army.

To provide for the defence of Indiana, a large corps of mounted men, under the command of General Hopkins,† of the revolutionary army, was ordered to "repair immediately to Vincennes."

At this time Kentucky had the proud number of more than "seven thousand of her citizens in the field;"‡ a fact evincing the military ardor of her people, more than volumes of narration. She was, in fact, a State in arms. It was amidst this bright fire of military spirit in the western country, itself so detached from the observation and the orders of the general

* See Governor Scott's order, in Appendix.

† This officer had been designated to command the whole detachment subsequently placed under General Harrison.

‡ M'Afee, 111.

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government; that Governor Shelby, who had now succeeded Governor Scott, urged on the war department the revival of a local board of war. This measure, it will be recollected, had been authorized under the administration of General Washington. Governor Shelby's idea was,* "appointing a board of respectable characters, resident in the western country, responsible to the" President, "in any way it shall be his pleasure to direct, with power to call into service, under the laws of Congress, the militia which may be required;" "to direct their operations either of offence or defence; to require from the department of war, all the munitions of war necessary for the supply of the troops, and all necessary equipments; to have control over the subordinate agents of the war department within the district assigned them; and to make it the duty of the board to report to the department of war, from time to time, the measures by them adopted." This proposition does not seem to have been relished in the cabinet of President Madison; though it was not directly repelled. The Secretary at War adroitly remarked† upon it, in his reply to the Governor, "that whether" such a board "could be clothed with the powers suggested, is a question requiring consideration." He added, that "it has been determined to vest the command of all the forces on the western and northwestern frontier in an officer, whose military character and knowledge of the country appear to be combined with the public confidence. General Harrison has accordingly been appointed to the chief command, with authority to employ officers, and to draw from the public, and every other practicable source, all the means of effecting the object of his command:" an extent of command and of discretion, which implied the most unreserved confidence of the administration in the skill and the zeal of General Harrison. It was most richly merited, and gallantly repaid; by this command the General was replaced on a theatre which he had occupied twenty years before.

On the 3d of September, the troops arrived at Piqua; a town

* Letter to Secretary Eustis, September 5th, 1812.

† Letter of Secretary Eustis to Governor Shelby, of the 17th September, 1812.

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eighty miles from Cincinnati, and only three miles from the extreme frontier. It is situated on the bank of the Great Miami, and had formerly constituted an object; now it was only a stage in the military operations of Kentucky. Here General Harrison, learning that Fort Wayne, was invested by the Indians; detached "Colonel Allen's regiment, with two companies from Lewis' and one from Scott's regiment, with instructions to make forced marches for its relief." A body of seven hundred mounted men, under command of Colonel Adams, of the Ohio militia, after their late exhaustion by the imbecility of Hull, advanced as far as the St. Mary's, with the same view. It embraced the first and most respectable characters of the State and of Cincinnati: the fervor which animated Kentucky had its full counterpart in the feelings of the next eldest sister of the western family. "Such, indeed, was the ardor of the citizens to serve in this way, that every road to the frontiers was crowded with unsolicited volunteers." "On the evening of the 4th, General Harrison received further intelligence, that a British and Indian force had left Malden on the 18th of August, to join the Indians already" engaged in the siege of Fort Wayne.

On the 6th, after receiving a supply of *flints*, which had been utterly wanting, the troops made forced marches till, on the 8th, they overtook Colonel Allen's regiment at the St. Mary's. At this point he had halted, by orders from the General, to build blockhouses for the security of provisions and the protection of the sick." From this time, the troops, including the corps of mounted volunteers, now "two thousand two hundred strong," were placed on half rations.

While at Piqua, a Shawnee half blood by the name of Logan, (a former captive to General Logan, of Kentucky,) at the desire of the Indian agent, penetrated through the Indian force to Fort Wayne. He brought intelligence of the actual siege, and that the British reinforcement had not passed up the Maumee. The Indians had not been inattentive to ascertaining the movements of our troops: their scouts from Fort Wayne had not been able to get round our camp before daybreak. They

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returned to their fellow warriors with the exclamation, that "Kentuc was coming, as numerous as the trees!" The army now advanced at a slow rate; "scouts were placed from half a mile to a mile in front, and also beyond the right and left flanks." By the 11th instant, the fort was approached by our troops within twenty miles; and when the army had halted, the whole encampment was immediately "fortified with a breast-work of logs, and the brush cleared away for thirty paces on the outside." During the night, the alarms of Indians "attempting to approach and examine the camp" were frequent.

Early the next morning, the troops were in motion, fully expecting to meet the Indians at a remarkable swamp, five miles on this side of Fort Wayne. As the army approached this critical passage, the horsemen under Adams and Johnson (the latter of whom had been elected Major) were ordered to march round it on the right and left; while the main army passed over. At this passage, the swamp was only one hundred yards wide; although generally it was three times this distance in breadth, and about one mile in length. Our troops passed without the least sign of an Indian, until they got through; where they found the marks of a recent Indian encampment. A single Indian was the only vestige of the late besieging army; most of whom had fled the previous evening, and some only a few minutes before the appearance of the army. Could confidence in their own military arts be exhibited more undauntedly, than by these facts? About two hours before sunset, the troops arrived at the fort, to the great relief of its harrassed garrison.

This spot, so remarkable in the history of the western country, richly deserves a brief description. It is delightfully situated below the junction of the St. Mary's and the St. Joseph's, on the south side. It was known to the French, as Ome*, and was the principal town of the Miamis, for more than a century; it had been the principal rendezvous for the Indians of the lakes, and of the Wabash and the Illinois. The

* A corrupt orthography and abridgment of the French term Au, or Aux Miamis; as Au Cas is a corruption of Au Kaskaskias, to Kaskaskia.

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French traders had frequented it before 1755. The conveniences of navigation from this point, had no doubt, principally contributed to make it a resort to such extent. "The Miami," or Maumee, to distinguish it from the Miami rivers of the Ohio, "is navigable for boats from this place to the lake, and the portage to the nearest navigable branch of the Wabash, is but seven or eight miles, through a level, marshy prairie, from which the water runs both to the Wabash and St. Mary's."

The next day after the arrival of the army, it was determined to divide it into two corps; and to proceed "in quest of the Indians and their towns. The first division was composed of the regiments of Lewis and Allen, and Captain Garrard's troop of horse, under General Payne, and accompanied by General Harrison."* The second was placed under Colonel Wells, with a battalion of his own regiment, under Major Davenport; Scott's regiment, the mounted battalion, under Johnson, and the mounted men from Ohio under Adams, composed the second detachment." The principal intention of these expeditions was, to destroy the provisions of the Indians, "so that they could not find the means of subsistence." "The party under General Payne having traversed a fine region of country, arrived on the 15th at the village in the forks," which had been abandoned by the Indians. They encamped in the town, and cut up the corn and other vegetables in the fields."

Merciless as these hostilities seem, what other blows could be struck against an enemy, so Parthian in its movements, and yet so ferocious in its warfare? Still they must have materially exasperated the minds of the Indians, and whetted their appetite for new and fiercer outrages upon the whites. It is the melancholy character of retaliation, to know no termination to its horrors; and to increase its dreadful fury, by every additional gratification. Other towns shared the same fate, without our having lost a man, or having seen a living Indian.

"The tomb of a chief, built of logs and daubed with clay, was found in one of these villages. He was laid on his blan-

* McAfee, 127

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ket, with his gun and his pipe by his side, a small tin pan on his breast, containing a wooden spoon and a number of ear rings and broaches—all deemed necessary, no doubt, on his journey to the other world."

The party under Colonel Wells had to march about sixty miles to the town against which they were sent. On the 16th, having crossed the Elkhart, (a branch of the St. Joseph's, of Lake Michigan,) above the village, "the troops surrounded the town, but to their deep mortification, found it abandoned, with abundance of provisions in it. "This village was called Five Medals, from a chief of that name, who made it his residence. On a pole before the door of that chief's cabin, a red flag was hung, with a broom tied above it; and on another pole at the tomb of an old woman, a white flag was flying. The body of the old woman was placed upright, with her face to the east, and a basket beside her containing trinkets; such as owl and hawk bills, claws, and a variety of bones, and bunches of roots tied together; all of which indicated that she had been revered as a sorceress, and probably as a doctress." In proof of the intelligence which the enemy procured, it must be mentioned, that a Cincinnati newspaper, containing an account of General Harrison's army, was found in one of the Indian huts. The village, with seventy acres of corn, was all destroyed. The troops returned to the fort by the 18th, "a few hours after the party under Gen. Payne."

By the 17th, Colonel Simrall, at the head of a regiment of three hundred and twenty dragoons, armed with muskets, and a company of mounted riflemen, under Colonel Farrow, of Montgomery county, Kentucky, arrived at Fort Wayne. This re-enforcement was immediately despatched against the town of Little Turtle, about twenty miles to the north-west, with orders to destroy it all except the buildings erected by the United States, for the chief of that name. This chief had shown a friendship for the Americans after the treaty of Greenville, in 1795; which had contributed greatly to the preservation of peace. The orders of Colonel Simrall were executed "with

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promptness and despatch, and on the 19th he returned in the evening to the fort."

Brigadier General Winchester, of the United States Army, now arrived to take command of the troops, by orders from the department of war;* then uninformed of the surrender of Hull, or the appointment of General Harrison. This collision in command, had a most unhappy effect upon the troops; for the character of militia above all others, requires their feelings and affections to be consulted in the appointment of their officers, in order to command their full exertions. It took all the influence of General Harrison and the field officers, to reconcile the men to this change in their commander. This may well be conceived from the following honorable testimony by General M'Afee,† himself an actor in these busy scenes. "He was affable and courteous in his manners, and indefatigable in his attention to every branch of business. His soldiers seemed to anticipate the wishes of their General. It was only necessary to be known, that he wished something done, and all were anxious to risk their lives in its accomplishment. His men would have fought better and suffered more with him, than with any other general in America."

On the 19th the command of the troops was transferred by a general order of Harrison, to Winchester; at the same time, any troops deemed necessary to the plans of his successor, were magnanimously offered by the former officer. He now returned "to take command of the troops collecting in the rear, and to prepare for a mounted expedition against Detroit. He intended to make a coup de main‡ on that place, with a mounted force, which should march by an unfrequented route from Fort Wayne, up the St. Joseph's to the head waters of the river Raisin." The troops with which this expedition was intended to be made, "were the three regiments from Kentucky, under Barbee, Poague and Jennings, with three companies of mounted riflemen from the same State, under captains Roper, Bacon and Clarke,

* Dawson, 291. † M'Afee, 131. ‡ A sudden and rapid attack on an enemy.

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and a corps of mounted men from Ohio. The latter was commanded by Colonel Finley, of the revolutionary service.

This alert movement was, however, modified by a communication from the war department, on the 24th of September, appointing General Harrison, "to the command of the north-western army," which was promised to be filled up to the number of ten thousand men. This despatch contained this more pregnant instruction, that, "Having provided for the protection of the western frontier, you will retake Detroit, and with a view to the conquest of Upper Canada, you will penetrate that country as far as the force under your command will, in your judgment justify." This strain of unqualified and high expectation on the part of the administration, was corroborated by another despatch of the 23d inst., to the following purport: "You are already apprized of the solicitude of the government, that every thing that can be done, shall be done, towards recovering the ground lost, and extending successful operations in Canada." Still most honorable discretion was left to the superior information and judgment of the General on the spot; and the contractor, commissary, and quartermaster's departments were placed under his orders. The extent of this command, and the difficulties attendant upon it, merit particular attention, in order to appreciate its discharge. The territory itself extended from the western frontier of Pennsylvania, to the territory of Missouri inclusive; the population was sparse and scattered, the principal enemy, that was to be attacked, was separated by a swampy wilderness of two hundred miles in extent, almost impassably deep in a wet season; the country generally the seat of the fierce and wily savages of the north-west. The troops to be employed against these antagonists, though of vigorous and manly bravery, were undiciplined, and most ill provided for a winter campaign in this high northern latitude. Such is a faint sketch of the obstacles to success, in executing the high military trust, now confided with so much patriotic hope,

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to our young western General. The plan adopted to meet the duties incumbent upon him was, to collect the troops at four points, Wooster, Urbanna, Fort Defiance and St. Mary's. From these points the object of concentration for his troops, was the rapids of the Maumee. The forced expedition at first adopted against Detroit, was now abandoned; because the infantry could not be in readiness to secure, and retain the acquisition, should it be made.

The base line of the new campaign, was, one drawn from Upper Sandusky along the southerly side of the swampy district, to St. Mary's, at the head of the river of the same name. These two places, with Fort M'Arthur between them, were intended as the depots for provisions, artillery and military stores. The troops at Defiance, in the fork of the Au Glaize and the Maumee, were intended to act as a corps of observation; and when the artillery should be brought to Upper Sandusky, then they were to advance to the Rapids. At Lower Sandusky, a corps of observation was also stationed, which, with that at Defiance, would form the extremeties of a new military base, when the army should have reached the advanced position mentioned on the Maumee. These arrangements covered the frontiers by the different corps, and kept the troops within the bounds of the ordinary contractors; while the quarter-masters were accumulating provisions farther in advance, and procuring means of transportation across the difficult district of country, so well termed the black swamp.

General Winchester was left at Fort Wayne, in the command of the troops surrendered to him by General Harrison. The latter officer had proceeded to St. Mary's, where about three thousand men were collected, for the purpose of the expedition against Detroit already alluded to. This expedition, it will be recollected, had been abandoned by the commanding General, for reasons which have been already assigned. Whilst in this position, information* was received by Quarter-master Thomas D. Carneal, that a large

* Dawson, 306.

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force of British and Indians, with artillery, was passing up the left bank of the Maumee, towards Fort Wayne. General Harrison immediately determined by a rapid march upon the confluence of the Au Glaize with the Maumee, to try and intercept the return of this detachment, knowing it would be met in front by the corps of Winchester. The force under the immediate command of the General at this time, consisted of some troops of cavalry from Ohio and Kentucky; the mounted corps of Finley"* of the former State, and of R. M. Johnson, belonging to the latter; together with the infantry regiments of Poague, Barber, and Jennings. The latter officer with his regiment, had previously been detached to erect an intermediate post between St. Mary's and the confluence of the Au Glaize, called Fort Jennings.

On the 30th of September, General Harrison set out on the proposed expedition; apprehensive that the infantry would too much retard his progress, after the first day's march, the two regiments were ordered to return; and the General, at the head of the cavalry, continued his march. No weather, or condition of a country could be more trying to the feelings and the subordination of irregular troops, than during this forced expedition of General Harrison. The rain fell in torrents; the flat beech woods were covered with water; and they were so swampy that the horses sank half leg deep at every step. On the close of the second day's march, the troops encamped in a bottom of the Au Glaize.

"A description of the *bivouac* of this night will serve for that of many similar ones which were passed by the General and his troops during this campaign, with the exception of the increase of suffering from the severe cold of winter. The troops being on a forced march, were not suffered to encamp, as long as there was light enough to march: they were formed as well as possible in an order of encampment, and guards placed out. The ground of the encampment here spoken of, was on the side of the Au-

* An old and distinguished infantry officer of Lee's legionary corps in the American Revolution.

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Glaize river, in a flat beech bottom, which was nearly covered by the water from the rain which fell in torrents during the whole night. The troops were without axes, and their tomahawks could effect nothing with the large green beech trees. Happy were they who could find a dry log in which a fire could be kindled; those who had not this good fortune were obliged to content themselves with passing the night sitting on their saddles at the roots of the trees, against which they leaned and procured a little sleep. Being separated from the baggage, there were few who had any thing to eat, or spirits to drink. In a situation of this kind, men are peevish and ill-natured, in the venting of which a thousand circumstances continually occur. To prevent ebullitions of this kind, and to produce more pleasant feelings, the General, seated round a small fire, with his staff, wrapped in his cloak, and taking the rain as it fell, directed one of his officers to sing an Irish glee: the humor of this song, and the determination which seemed to exist at *head quarters* to put circumstances at defiance, soon produced cheerfulness and good humor throughout the camp. The General was afterwards joined by a Kentucky officer, who sung a glee beginning with

"Now's the time for mirth and glee,
Sing, and laugh, and dance with me."

"This became the favorite air, and in all situations of difficulty, whether suffering the peltings of the storm, or traversing the swamps up to the knees in mud and ice, it was resounded in full chorus: the singular contrast between the words of their song and their actual situation, affording cause of merriment, and a fruitful source of whimsical remark."

The clouds which had overhung the countenances of the men were soon dispersed, and cheerfulness, if not content, was restored to the camp.

By day-break of the next morning, the march was resumed; the troops being required to be in readiness to mount by reveillee. In the course of the next day, the General was met by an officer from General Winchester, who informed him of

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the latter officer's arrival at Fort Defiance, and that the united body of British and Indians had retired down the Maumee. He then prosecuted his march, with a small escort, to Winchester's camp, leaving his detachment to come up more at their leisure. He arrived late at night.

At this post, a revolt in Colonel Allen's regiment took place, which, for its honorable termination, as well as from motives of historical fidelity, requires to be mentioned. It has been but obscurely alluded to by General McAfee and Mr. Dawson.

Soon after General Harrison's arrival at camp, and after he had retired to enjoy some little repose, so welcome to any one, who had been exposed on the preceding comfortless and forced expedition; he found himself suddenly awakened by Colonel Allen, and Major M. D. Hardin. These officers were the bearers of the mortifying news, that Allen's regiment, exhausted by the hard fare of the campaign, and disappointed in the expectation of an immediate engagement with the enemy, had, in defiance of their duty to their country, and all the earnest impassioned remonstrances of their officers, determined to return home. These officers assured General Harrison that they could do nothing with their men; that their representations were answered by insults alone. They begged the General to rise and interfere, as the only officer who had any prospect of bringing the mutineers back to their duty. He refused to interfere at that time; but assured the gentlemen that he would attend to the serious object of their request, in his own way and at his own time. The officers retired; in the mean time General Harrison sent one of his aids to direct General Winchester to order the alarm, or point of war, to be beat on the ensuing morning, instead of the reveillee. This adroit expedient brought all the troops to their arms, the first thing in the morning. It diverted the spirits of the discontented troops into a new channel of feeling; and prepared them for the subsequent events.

On the parading of the troops at their posts, General Winchester was ordered to form them into a hollow square. General Harrison now appeared upon parade, much to the surprise

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of the troops, who, from his late arrival in camp, were unapprized of his presence. If the sudden and unexpected arrival of their favorite commander had so visible an effect upon the men, his immediate address to them fully preserved the impression. He began by lamenting that there were, as he was informed, considerable discontents in one of the Kentucky regiments: this, although a source of mortification to himself, on their account, was happily of little consequence to the government. He had more troops than he knew well what to do with at the present stage of the campaign; he was expecting daily the arrival of the Pennsylvania and Virginia quotas. It is fortunate, said this officer, with the ready oratory for which his native Virginia is so famed, that he had found out this dissatisfaction before the campaign was farther advanced, when the discovery might have been mischievous to the public interests, as well as disgraceful to the parties concerned. Now, so far as the government was interested, the discontented troops, who had come into the woods with the expectation of finding all the luxuries of home and of peace, had full liberty to return. He would, he continued, order facilities to be furnished for their immediate accommodation. But he could not refrain from expressing the mortification he anticipated for the reception they would meet from the old and the young, who had greeted them on their march to the scene of war, as their gallant neighbors.

What must be their feelings, said the General, to see those whom they had hailed as their generous defenders, now returning without striking a blow, and before their term of plighted service had expired? But if this would be the state of public sentiment in Ohio, what would it be in Kentucky? If their fathers did not drive their degenerate sons back to the field of battle to recover their wounded honor; their mothers and sisters would hiss them from their presence. If, however, the discontented men were disposed to put up with all the taunts and disdain, which awaited them, wherever they went, they were, General Harrison again assured them, at full liberty to go back.

The influence of this animated address was instantaneous. This was evinced in a manner most flattering to the tact and

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management of the commander. Colonel J. M. Scott, the senior Colonel of Kentucky, and who had served in the armies of Harmar, St. Clair, and Wayne, in the medical staff, now addressed his men. These were well known in the army as the "Iron Works," from the neighborhood from which they had come. "You, my boys," said the generous veteran, "will prove your attachment for the service of your country, and your General, by giving him three cheers." The address was attended with immediate success, and the air resounded with the shouts of both officers and men.

Colonel Lewis next took up the same course, and with the same effect.

It now became the turn of the noble Allen again to try the temper of *his* men. He begged leave of the General to address them: but excess of emotion choked his utterance; at length he gave vent to the contending feelings of his heart, in a broken, but forcible address, breathing the fire which ever burned so ardently in his breast. At the close of it, however, he conjured the soldiers of his regiment to give the General the same manifestation of their patriotism and returning sense of duty, which the other Kentucky regiments had so freely done. The wishes of their high spirited officer were complied with; and a mutiny was nipped in its bud, which might, if persisted in, have spread disaffection through the Kentucky troops, to the disgrace of our gallant State, and the lasting injury of the public cause. No troops however behaved more faithfully or zealously through the remainder of their service, till the greater part of them offered up their lives in defence of their country on the fatal field of Raisin.

General Harrison having quelled this unhappy disturbance, in the subordination of the troops, now made his arrangements with general Winchester, for the full command of the left wing. To this officer were committed the regulars under Colonel Wells, the regiments of Scott, Lewis and Allen, already mentioned, and the additional regiments under Colonels Poague, Barbee, and Jennings. Colonel Bodley, the quarter-master of this wing, an efficient and zealous officer of Kentucky, was

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fully empowered by General Harrison to draw upon the treasury for the carrying into effect all orders which he might receive from General Winchester, for the supply of his command.

It now became necessary for the commanding General to direct his attention to the arrangements for the accommodation of the troops, which were marching to his reinforcement from Pennsylvania and Virginia. These, together with the brigade of General Perkins, of the Ohio militia, constituted the right wing of the army. Not only provisions were to be collected for this body of men, but all the materiel of war, ammunition and artillery were yet to be obtained. It will hardly be believed in the future history of America, that when but two pieces of disposable artillery of small calibre had, by the disgraceful surrender of Hull, been left in the western country, and which the commanding General informed the Secretary at War, he had rather be without, cannon should have been sent to Pittsburg without their carriages. Yet such was the fact; and when the whole country supposed General Harrison was thoroughly supplied with all the munitions of war, which the government was so able to furnish; the trees were still growing about Pittsburg, out of which, the carriages of the artillery were to be manufactured.*

This was the state of protracted destitution of the army, in regard to a most important military arm.

Colonel Morrison, an old revolutionary officer, and Colonel William Piatt, had been appointed deputy Quarter-masters General in the service, to act at the head oft heir department in the north-western army. These officers were placed under the command of General Winchester; and he was fully informed of the general plan of the campaign by General Harrison,† and thus became responsible for the part assigned him, in the general operations of the military service.

General Tupper, of the Ohio militia, with the mounted troops which had accompanied General Harrison, a portion of whose time of service yet remained, was now destined to lead an expedition against the Ottawa towns, on the eastern waters of the

* McAffee. † Dawson, 309, for Harrison's despatch.

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Au Glaize. But owing to some disagreement between Generals Winchester and Tupper, the causes of which have not been fully explained, together with great insubordination among the troops, the expedition was abandoned, and the troops were shortly after disbanded.

The commanding General had, however, previously proceeded to organize the right wing of the army. Before resuming the course of events in this part of the theatre of war, it will be necessary to complete the narrative of operations, on the extreme left of the military district.

The left wing of the army had now been confided to General Winchester, who had accepted it, at the solicitation of General Harrison, with the utmost harmony, rather than accept a command on the Niagara. The great object of all the military exertions was, at this time, to accumulate a sufficient stock of provisions for the main expedition against Detroit.

In the interim, an expedition was deemed necessary for the protection of Indiana and Illinois territories; these had also been confided to general Harrison. The depredations of the Indians had become harassing and destructive. To effect this object, Gov. Shelby issued his proclamation, inviting volunteers for this purpose, under Major General Samuel Hopkins, (who had been designated by General Harrison,) to meet at Louisville, on the 18th of September, with at least thirty days' provision.

In compliance with this invitation, more * than two thousand volunteers assembled at Louisville, Red Banks, and at other places on the Ohio, upon their way to Vincennes. So overflowing was the zeal of Kentucky, at this time, that the Governor had to turn back several hundreds at Louisville and Frankfort.

It was then, that a veteran in one of the companies that were turned back, remarked, "well, well, Kentucky has often glutted the market with hemp, flour, and tobacco, and now she has done it with volunteers."

At Vincennes, these troops were formed into four regiments, to be commanded by Colonels Samuel Caldwell, John Thomas,

* McAffee, 157.

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James Allen, and Young Ewing; two brigades were formed of these, and placed under General James Roy, of early fame in the history of Kentucky, and General Jonathan Romsey. A fifth regiment was formed after this organization, under Colonel Samuel South. Early in October, this imposing corps was marched to fort Harrison, on the Wabash, where they drew ten days' provisions; after crossing this river to the west, the troops were informed, that the General intended marching to the Kickapoo village, on the waters of the Illinois river. This was stated by the guides, to be eighty-five miles distant, in a north-west direction; the army pursued this direction, sometimes varying to the north-east, and crossing several trails of Indians, which all bore to the westward, till the provisions and forage of the army were found to be alarmingly scarce. The General now undertook to act as guide himself, and changed the direction of the march to the west; but after proceeding one day on this course, a council was called, which was unanimously of opinion "that* in the starving situation of both men and horses, with a very uncertain prospect of finding the enemy soon, it was most proper to abandon the pursuit and return." The General, however, requested the troops to continue the pursuit another day; but their sense of suffering was too keen, and the uncertainty of the situation of the enemy so utter, that "they unanimously took the direction to Vincennes, notwithstanding the remonstrances of the general officers." It has† since been ascertained, that the town which had been the destination of the expedition, was situated sixty or seventy miles farther west. This ignorance respecting the topography of the Indian country, which has for so long a period embarassed our expeditions into their territory, ought long ago to have admonished government to execute a topographical survey of the Indian country. Such a survey, should exhibit the situation of every durable Indian village within the boundaries of the republic.

The insubordination exhibited by too large a portion of the Kentucky troops on this expedition, may not in justice be

* McAffee, 150, 160.

† General Hopkins, however, asserts in his letter to Gov. Shelby, that they were but twenty miles off. Niles' Reg. 3d—214.

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passed over, without the pointed censure and rebuke of history.

One of its great moral purposes is, to sit in judgment on the actions of mankind; and conscientiously to lift its small and still voice against every departure from the duties of life. These appeals, noiseless as they are, find their support and influence in the moral sense of mankind; and thus contributes to secure society in some degree, from their repetition.

The ardor of Kentucky, ever bordering on impetuosity, is constantly in danger of degenerating on suspicion, or dislike, into uncontrollable obstinacy. It is their national energy perverted by want of adroitness, or other inaptitude, in its management. The General himself, was debilitated in health; a most unfortunate circumstance, where so much must depend on personal influence, and physical energy, as in a command over irregular and undisciplined troops.

Still, this officer, after marching this formidable and promising expedition back to fort Harrison, by the 6th of October, "without hardly obtaining the sight of an enemy," determined to use his exertions in the service of his country, with a perseverance worthy of a better fortune.

Accordingly on the 11th of November, another party of about twelve hundred and fifty men set off, consisting of the regiments of Colonels Barbour, Miller, and Wilcox, with a small party of regulars under Major Zachariah Taylor, the intrepid and collected defender of fort Harrison, and a corps of rangers and scouts, under the command of Captains Washburn and Beckers, of Indiana. The provisions, military stores, &c., were embarked on board of some boats commanded by Colonel Barbour.

A rise of the waters of the Wabash, impeded the ascent of the boats so much, that it was the 19th of the month before they reached the Prophet's town, below Tippecanoe creek. "Several days were spent in reconnoitering the country, and in destroying the evacuted villages,* in the neighborhood, together with the corn and other resources, which had been left about them." The Prophet's town, "destroyed about a twelve

* M'Afee, 161.

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month ago, by General Harrison, containing at this time about forty cabins; a Winnebago village, four miles lower down, on Ponce Passu creek, and near the Wabash, on the east side, containing about forty houses also; and a Kickapoo village, on the west side, containing about one hundred and sixty cabins; were all completely destroyed."

Although this was the most efficient warfare the corps could levy; yet it must not be supposed that such hostilities could materially impair the efficiency of the enemy, particularly when they were supplied with rations by the British. It would scarcely reach their squaws and papooses, who are entitled to the commiseration of a civilized foe. It must be by actual encounter and defeat, as at Point Pleasant, the Maumee, Tippecanoe and Mississineway, with all their mortality of strife, that the Indians can be brought to submisson. The mounted expeditions of Kentucky have never materially reduced the military power of the savages, by surprise; they have alarmed them, put them to flight, until an opportunity for advantage and bitter retaliation presented itself; and when fighting without an European ally, they may have been straitened by these inroads, for provisions: but hostilities were only suspended for a season more appropriate for gratifying their vengeance; and the whole work was to do over again. To make our arms felt by the Indians, their country must be taken possession of, and they must be fought openly, and conquered on their own ground; not merely put to flight, to return a Parthian arrow; but they must be defeated by manly, hard fighting, which they readily respect.

The subsequent circumstances attending this very expedition, illustrate the superiority of the Indians to these hasty enterprises. On the 21st, a gallant soldier of the name of Dunn, in Captain Duval's company, was killed by the Indians, on Ponce Passu creek, seven miles east of the camp. A party of sixty men, under Colonels Wilcox and Miller, went out to bury their companion, when they fell into an ambuscade of a large body of Indians, and lost nearly a third of their party. The General now determined to engage this body of the enemy;

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but "a violent snow storm, attended with the coldest weather," the General says, "I ever felt or saw," delayed the march until the 24th. Upon reaching the ground of the Indian encampment, which was found to present one of the strongest natural fortifications ever seen; it was discovered that the enemy had decamped before the fall of the snow. With this manifestation of the disposition of the enemy not to engage, which the Indians can almost always indulge at their pleasure; the advanced season of the year, and the clothing of the troops unprovided for the inclement weather, the General very properly, and with the concurrence of all his officers, withdrew his troops, on their return. Although the enemy were still only "scotched, not killed," our troops had behaved with honorable obedience under ten-fold greater difficulties and privations, than those which had driven the former expedition into mutiny, at once disgraceful to themselves, and subversive of their country's interest. By their insubordination, they exposed the detachment of Colonel Russell to destruction.

This officer had penetrated, with Governor Edwards of Illinois, to the Peoria towns, at the head of the lake of the same name. He surprised the village, and drove the enemy over the Illinois river, having killed twenty persons on the field, destroyed the town, and brought away a large body of horses. The intention of this officer had been to co-operate with General Hopkins, on the Illinois river, to which the latter purposed going, after striking the Kickapoo town. But hearing nothing of the great expedition in that quarter, Colonel Russell made the best use of his resources, and effected the useful service just described, in the far north-west.

Had the disobedience of orders, in the first expedition of General Hopkins, sacrificed the gallant corps of Russell to the vengeance of our savage foes; what reproaches must have stung the hearts of the mutineers, to their latest hour of existence! Yet such was the direct tendency of this conduct, and the indignant justice of their country, would have exacted the responsibility from the characters of those, who had been concerned in the base desertion of plighted duty.

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APPENDIX.

The following journal is so curious and little known that it has been thought, it would gratify the western public to lay it before them. It is extracted from the Monthly American Journal of Geology and Natural Science, December, 1831, by G. W. Featherstonhaugh, Esq., Philadelphia. The following copy purports to be from the original, in the possession of the Editor of the above work.—AUTHOR.

THE JOURNAL OF COLONAL CROGHAN.*

May 15th, 1765. I set off from fort Pitt with two batteaux, and encamped at Chartier's Island, in the Ohio, three miles below Fort Pitt.

16th. Being joined by the deputies of the Senecas, Shawnesse, and Delawares, that were to accompany me, we set off at seven o'clock in the morning, and at ten o'clock arrived at the Log's Town, an old settlement of the Shawnesse, about seventeen miles from Fort Pitt, where we put ashore, and viewed the remains of that village, which was situated on a high bank, on the south side of the Ohio river, a fine fertile country round it. At 11 o'clock we re-embarked and proceeded down the Ohio to the mouth of Big Beaver Creek, about ten miles below the Log's Town: this creek empties itself between two fine rich bottoms, a mile wide on each side from the banks of the river to the highlands. About a mile below the mouth of Beaver Creek we passed an old settlement of the Delawares, where the French, in 1756, built a town for that nation. On the north side of the river some of the stone chimneys are yet remaining; here the highlands come close to the banks and continue so for about five miles. After which we passed several spacious bottoms on each side of the river, and came to Little Beaver Creek, about fifteen miles below Big Beaver Creek, A number of small rivulets fall into the river on each side. From thence we sailed to Yellow Creek, being about fifteen miles from the last mentioned creek; here and there the hills come close to the banks of the river on each side, but where there are bottoms, they are very large, and well watered; numbers of small rivulets running through them, falling into the Ohio on both sides. We encamped on the river bank, and find a great part of the trees in the bottom are covered with grape vines. This day we passed by eleven islands, one of which being about seven miles long. For the most part of the way we made this day, the banks of the river are high and steep. The course of the Ohio from Fort Pitt to the mouth of Beaver

* Not Colonel Croghan of Kentucky.

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Creek inclines to the north-west; from thence to the two creeks partly due west.

17th. At 6 o'clock in the morning we embarked: and were delighted with the prospect of a fine open country on each side of the river as we passed down. We came to a place called the Two Creeks, about fifteen miles from Yellow Creek, where we put to shore; here the Senecas have a village on a high bank, on the north side of the river; the chief of this village offered me his service to go with me to the Illinois, which I could not refuse for fear of giving him offence, although I had a sufficient number of deputies with me already. From thence we proceeded down the river, passed many large, rich, and fine bottoms; the highlands being at a considerable distance from the river banks, till we came to the Buffalo Creek, being about ten miles below the Seneca village; and from Buffalo Creek, we proceeded down the river to Fat Meat Creek, about thirty miles. The face of the country appears much like what we met with before; large, rich, and well watered bottoms, then succeeded by the hills pinching close on the river; these bottoms, on the north side, appear rather low, and consequently subject to inundations, in the spring of the year, when there never fails to be high freshes in the Ohio, owing to the melting of the snows. This day we passed by ten fine islands, though the greatest part of them are small. They lay much higher out of the water than the main land, and of course less subject to be flooded by the freshes. At night we encamped near an Indian village. The general course of the river from the Two Creeks to Fat Meat Creek inclines to the south-west.

18th. At 6 o'clock, A. M. we set off in our batteaux; the country on both sides of the river appears delightful; the hills are several miles from the river banks, and consequently the bottoms large; the soil, timber, and banks of the river, much like those we have before described; about fifty miles below the Fat Meat Creek, we enter the long reach, where the river runs a straight course for twenty miles, and makes a delightful prospect; the banks continue high; the country on both sides, level, rich, and well watered. At the lower end of the reach we encamped. This day we passed nine islands, some of which are large, and lay high out of the water.

19th. We decamped at six in the morning, and sailed to a place called the Three Islands, being about fifteen miles from our last encampment; here the highlands come close to the river banks, and the bottoms for the most part—till we come to the Muskingum (or Elk) river—are but narrow: this river empties itself into the Ohio about fifteen miles below the Three Islands; the banks of the river continue steep, and the country is level for several miles back from the river. The course of the river from Fat Meat Creek to Elk River, is about south-west and by south. We proceeded down the river about fifteen miles, to the mouth of Little Conhawa River, with little or no alteration in the face of the country; here we encamped in a fine rich bottom,

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after having passed fourteen islands, some of them large, and mostly lying high out of the water. Here buffaloes, bears, turkeys, with all other kinds of wild game are extremely plenty. A good hunter, without much fatigue to himself, could here supply daily one hundred men with meat. The course of the Ohio, from Elk River to Little Conhawa, is about south.

20th. At six in the morning we embarked in our boats, and proceeded down to the mouth of Hochocken or Bottle River, where we were obliged to encamp, having a strong head wind against us. We made but twenty miles this day, and passed by five very fine islands; the country the whole way being rich and level, with high and steep banks to the rivers. From here I despatched an Indian to the Plains of Scioto, with a letter to the French traders from the Illinois residing there, amongst the Shawnesse, requiring them to come and join me at the mouth of Scioto, in order to proceed with me to their own country, and take the oaths of allegiance to his Britannic Majesty, as they were now become his subjects, and had no right to trade there without license. At the same time I sent messages to the Shawnesse Indians to oblige the French to come to me in case of refusal.

21st. We embarked at half past 8 o'clock in the morning, and sailed to a place called the Big Bend, about thirty-five miles below Bottle River. The course of the Ohio, from Little Conhawa River to Big Bend, is about south-west by south. The country hereabouts abounds with buffalo, bears, deer, and all sorts of wild game, in such plenty, that we killed out of our boats as much as we wanted. We proceeded down the river to the Buffalo Bottom, about ten miles from the beginning of the Big Bend, where we encamped. The country on both sides of the river, much the same as we passed the day before. This day we passed nine islands, all lying high out of the water.

22d. At half an hour past 5 o'clock, set off and sailed to a place, called Alum Hill, so called from the great quantity of that mineral found there by the Indians; this place lays about ten miles from Buffalo Bottom; thence we sailed to the mouth of Great Conhawa River, being ten miles from the Alum Hill. The course of the river, from the Great Bend to this place, is mostly west; from hence we proceeded down to Little Guyondott River, where we encamped, about thirty miles from Great Conhawa; the country still fine and level; the bank of the river high, with abundance of creeks and rivulets falling into it. This day we passed six fine islands. In the evening one of our Indians discovered three Cherokees near our encampment, which obliged our Indians to keep out a good guard the first part of the night. Our party being pretty strong, I imagine the Cherokees were afraid to attack us, and so ran off.

23d. Decamped about five in the morning, and arrived at Big Guyondott, twenty miles from our last encampment: the country as of yesterday; from hence we proceeded down to Sandy River,

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being twenty miles further; thence to the mouth of Scioto, about forty miles from the last mentioned river. The general course of the river from Great Conhawa to this place inclines to the south-west. The soil rich, the country level, and the banks of the river high. The soil on the banks of Scioto, for a vast distance up the country, is prodigious rich, the bottoms very wide, and in the spring of the year, many of them are flooded, so that the river appears to be two or three miles wide. Bears, deer, turkeys, and most sorts of wild game, are very plenty on the banks of this river. On the Ohio, just below the mouth of Scioto, on a high bank, near forty feet, formerly stood the Shawnesse town, called the Lower Town, which was all carried away, except three or four houses, by a great flood in the Scioto. I was in the town at the time, though the banks of the Ohio were so high, the water was nine feet on the top, which obliged the whole town to take to their canoes, and move with their effects to the hills. The Shawnesse afterwards built their town on the opposite side of the river, which, during the French war, they abandoned, for fear of the Virginians, and removed to the plains on Scioto. The Ohio is about one hundred yards wider here than at Fort Pitt, which is but a small augmentation, considering the great number of rivers and creeks, that fall into it during the course of four hundred and twenty miles; and as it deepens but very little, I imagine the water sinks, though there is no visible appearance of it. In general all the lands on the Scioto River, as well as the bottoms on Ohio, are too rich for any thing but hemp, flax, or Indian corn.

24th, 25th, and 26th. Stayed at the mouth of Scioto, waiting for the Shawnesse and French traders, who arrived here on the evening of the 26th, in consequence of the message I sent them from Hochocken, or Bottle Creek.

27th. The Indians requested me to stay this day, which I could not refuse.

28th. We set off: passing down the Ohio, the country on both sides the river level; the banks continue high. This day we came sixty miles; passed no islands. The river being wider and deeper, we drove all night.

29th. We came to the Little Miame River, having proceeded sixty miles last night.

30th. We passed the great Miame River, about thirty miles from the little river of that name, *and in the evening arrived at the place where the Elephants' bones are found*, where we encamped, intending to take a view of the place next morning. This day we came about seventy miles. The country on both sides level, and rich bottoms well watered.

31st. *Early in the morning we went to the great Lick, where those bones are only found, about four miles from the river, on the south-east side. In our way we passed through a fine timbered clear wood; we came into a large road which the Buffaloes have beaten, spacious enough for two waggons to go abreast, and leading straight into the Lick.* It appears that there are vast quantities

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of these bones lying five or six feet under ground, which we discovered in the bank, at the edge of the Lick. We found here two tusks above six feet long; we carried one, with some other bones, to our boats, and set off. This day we proceeded down the river about eighty miles, through a country much the same as already described, since we passed the Scioto. In this day's journey we passed the mouth of the River Kentucky, or Holsten's River.

June 1st. We arrived within a mile of the Falls of Ohio, where we encamped, after coming about fifty miles this day.

2d. Early in the morning we embarked, and passed the Falls. The river being very low we were obliged to lighten our boats, and pass on the north side of a little island, which lays in the middle of the river. In general, what is called the Fall here, is no more than rapids; and in the least fresh, a batteau of any size may come and go on each side without any risk. This day we proceeded sixty miles, in the course of which we passed Pidgeon River. The country pretty high on each side of the River Ohio.

3d. In the forepart of this day's course, we passed high lands; about mid-day we came to a fine, flat, and level country, called by the Indians the Low Lands; no hills to be seen. We came about eighty miles this day, and encamped.

4th. We came to a place called the Five Islands; these islands are very long, and succeed one another in a chain; the country still flat and level, the soil exceedingly rich, and well watered. The highlands are at least fifty miles from the banks of the Ohio. In this day's course we passed about ninety miles, the current being very strong.

5th. Having passed the Five Islands, we came to a place called the Owl River. Came about forty miles this day. The country the same as yesterday.

6th. We arrived at the mouth of the Ouabache, where we found a breast-work erected, supposed to be done by the Indians. The mouth of this river is about two hundred yards wide, and in its course runs through one of the finest countries in the world, the lands being exceedingly rich, and well watered; here hemp might be raised in immense quantities. All the bottoms, and almost the whole country abounds with great plenty of the white and red mulberry tree. These trees are to be found in great plenty, in all places between the mouth of Scioto and the Ouabache: the soil of the latter affords this tree in plenty as far as Ouicatonon, and some few on the Miame River. Several large fine islands lie in the Ohio, opposite the mouth of the Ouabache, the banks of which are high, and consequently free from inundations; hence we proceeded down the river about six miles to encamp, as I judged some Indians were sent to way-lay us, and came to a place called the Old Shawnesse Village, some of that nation having formerly lived there. In this day's procedings we came about seventy-six miles. The general course of the river, from Scioto to this place, is south-west.

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7th. We stayed here, and despatched two Indians to the Illinois by land, with letters to Lord Frazer, an English officer, who had been sent there from Fort Pitt, and Monsieur St. Ange, the French commanding officer at Fort Chartres, and some speeches to the Indians there, letting them know of my arrival here; that peace was made between us and the Six Nations, Delawares, and Shawnesse, and of my having a number of deputies of those nations along with me, to conclude matters with them also on my arrival there. This day one of my men went into the woods and lost himself.

8th. At day-break we were attacked by a party of Indians, consisting of eighty warriors of the Kiccapoos and Musquattimes, who killed two of my men and three Indians, wounded myself and all the rest of my party, except two white men and one Indian; then made myself and all the white men prisoners, plundering us of every thing we had. A deputy of the Shawnesse who was shot through the thigh, having concealed himself in the woods for a few minutes after he was wounded—not knowing but they were southern Indians, who are always at war with the northward Indians—after discovering what nation they were, came up to them and made a very bold speech, telling them that the whole northward Indians would join in taking revenge for the insult and murder of their people; this alarmed those savages very much, who began excusing themselves, saying their fathers, the French, had spirited them up, telling them that the Indians were coming with a body of southern Indians to take their country from them, and enslave them; that it was this that induced them to commit this outrage. After dividing the plunder, (they left great part of the heaviest effects behind, not being able to carry them,) they set off with us to their village at Ouattonon, in a great hurry, being in dread of a pursuit from a large party of Indians they suspected were coming after me. Our course was through a thick woody country, crossing a great many swamps, morasses, and beaver ponds. We traveled this day about forty-two miles.

9th. An hour before day we set out on our march; passed through thick woods, some highlands, and small savannahs, badly watered. Traveled this day about thirty miles.

10th. We set out very early in the morning, and marched through a high country, extremely well timbered, for three hours; then came to a branch of the Ouabache, which we crossed. The remainder of this day we traveled through fine rich bottoms, overgrown with reeds, which make the best pasture in the world, the young reeds being preferable to sheaf oats. Here is great plenty of wild game of all kinds. Came this day about twenty-eight, or thirty miles.

11th. At day-break we set off, making our way through a thin woodland, interspersed with savannahs. I suffered extremely by reason of the excessive heat of the weather, and scarcity of water; the little springs and runs being dried up. Traveled this day about thirty miles.

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12th. We passed through some large savannahs, and clear woods; in the afternoon we came to the Ouabache; then marched along it through a prodigious rich bottom, overgrown with reeds and wild hemp; all this bottom is well watered, and an exceeding fine hunting ground. Came this day about thirty miles.

13th. About an hour before day we set out; traveled through such bottoms as of yesterday, and through some large meadows, where no trees, for several miles together, are to be seen. Buffaloes, deer, and bears are here in great plenty. We traveled about twenty-six miles this day.

14th. The country we traveled through this day, appears the same as described yesterday, excepting this afternoon's journey through woodland, to cut off a bend of the river. Came about twenty-seven miles this day.

15th. We set out very early, and about one o'clock came to the Ouabache, within six or seven miles of Port Vincent. On my arrival there, I found a village of about eighty or ninety French families settled on the east side of this river, being one of the finest situations that can be found. The country is level and clear, and the soil very rich, producing wheat and tobacco. I think the latter preferable to that of Maryland or Virginia. The French inhabitants hereabouts, are an idle, lazy people, a parcel of renegadoes from Canada, and are much worse than the Indians. They took a secret pleasure at our misfortunes, and the moment we arrived, they came to the Indians,exchanging trifles for their valuable plunder. As the savages took from me a considerable quantity of gold and silver in specie, the French traders extorted ten half johannes from them for one pound of vermilion. Here is likewise an Indian village of the Pyankeshaws, who were much displeased with the party that took me, telling them that "our and your chiefs are gone to make peace, and you have begun a war, for which our women and children will have reason to cry." From this post the Indians permitted me to write to the commander, at Fort Chartres, but would not suffer me to write to any body else, (this I apprehend was a precaution of the French, lest their villany should be perceived too soon,) although the Indians had given me permission to write to Sir William Johnson and Fort Pitt on our march, before we arrived at this place. But immediately after our arrival they had a private council with the French, in which the Indians urged, (as they afterwards informed me,) that as the French had engaged them in so bad an affair, which was likely to bring a war on their nation, they now expected a proof of their promise and assistance. Then delivered the French a scalp and part of the plunder, and wanted to deliver some presents to the Pyankeshaws, but they refused to accept of any, and declared they would not be concerned in the affair. This last information I got from the Pyankeshaws, as I had been well acquainted with them several years before this time.

Port Vincent is a place of great consequence for trade, being a fine hunting country all along the Ouabache, and too far for

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the Indians, which reside hereabouts, to go either to the Illinois, or elsewhere, to fetch their necessaries.

16th. We were obliged to stay here to get some little apparel made up for us, and to buy some horses for our journey to Ouicatonon, promising payment at Detroit, for we could not procure horses from the French for hire; though we were greatly fatigued, and our spirits much exhausted in our late march, they would lend us no assistance.

17th. At mid-day we set out; traveling the first five miles through a fine thick wood. We traveled eighteen miles this day, and encamped in a large, beautiful, well watered meadow.

18th and 19th. We traveled through a prodigious large meadow, called the Pyankeshaw's Hunting Ground: here is no wood to be seen, and the country appears like an ocean: the ground is exceedingly rich, and partly overgrown with wild hemp; the land, well watered, and full of buffalo, deer, bears, and all kinds of wild game.

20th and 21st. We passed through some very large meadows, part of which belong to the Pyankeshaws on Vermilion River; the country and soil much the same as that we traveled over for these three days past, wild hemp grows here in abundance; the game very plenty, at any time, in half an hour we could kill as much as we wanted.

22d. We passed through part of the same meadow as mentioned yesterday; then came to a high woodland, and arrived at Vermilion River, so called from a fine red earth found here by the Indians, with which they paint themselves. About half a mile from the place where we crossed this river, there is a village of Pyankeshaws, distinguished by the addition of the name of the river. We then traveled about three hours, through a clear high woody country, but a deep and rich soil; then came to a meadow, where we encamped.

23d Early in the morning we set out through a fine meadow, then some clear woods; in the afternoon came into a very large bottom on the Ouabache, within six miles of Ouicatanon; here I met several chiefs of the Kicapoos and Musquattimes, who spoke to their young men who had taken us, and reprimanded them severely for what they had done to me, after which they returned with us to their village, and delivered us all to their chiefs.

The distance from port Vincent to Ouicatanon is two hundred and ten miles. This place is situated on the Ouabache. About fourteen French families are living in the fort, which stands on the north side of the river. The Kicapoos and Musquattimes, whose warriors had taken us, live nigh the fort, on the same side of the river, where they have two villages; and the Ouicatanons have a village on the south side of the river. At our arrival at this post, several of the Wawcottonans, (or Ouicatonans) with whom I had been formerly acquainted, came to visit me, and seemed greatly concerned at what had happened. They went immediately to the Kicapoos and Musquattimes, and charged

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them to take the greatest care of us, till their chiefs should arrive from the Illinois, where they were gone to meet me some time ago, and who were entirely ignorant of this affair, and said the French had spirited up this party to go and strike us.

The French have a great influence over these Indians, and never fail in telling them many lies to the prejudice of his majesty's interest, by making the English nation odious and hateful to them. I had the greatest difficulties in removing these prejudices. As these Indians are a weak, foolish, and credulous people, they are easily imposed on by a designing people, who have led them hitherto as they pleased. The French told them that as the southern Indians had for two years past made war on them, it must have been at the instigation of the English, who are a bad people. However I have been fortunate enough to remove their prejudice, and, in a great measure, their suspicions against the English. The country hereabouts is exceedingly pleasant, being open and clear for many miles; the soil very rich and well watered; all plants have a quick vegetation, and the climate very temperate through the winter. This post has always been a very considerable trading place. The great plenty of furs taken in this country, induced the French to establish this post, which was the first on the Ouabache, and by a very advantageous trade they have been richly recompensed for their labor.

On the south side of the Ouabache runs a big bank, in which are several fine coal mines, and behind this bank, is a very large meadow, clear for several miles. It is surprising what false information we have had respecting this country: some mention these spacious and beautiful meadows as large and barren savannahs. I apprehend it has been the artifice of the French to keep us ignorant of the country. These meadows bear fine wild grass, and wild hemp ten or twelve feet high, which, if properly manufactured, would prove as good, and answer all the purposes of the hemp we cultivate.

July 25th. We set out from this place (after settling all matters happily with the natives) for the Miames, and traveled the whole way through a fine rich bottom, overgrown with wild hemp, alongside the Ouabache, till we came to Eel River, where we arrived the 27th. About six miles up this river is a small village of the Twightwee, situated on a very delightful spot of ground on the bank of the river. The Eel River heads near St. Joseph's, and runs nearly parallel to the Miames, and at some few miles distance from it, through a fine, pleasant country, and after a course of about one hundred and eighty miles empties itself into the Ouabache.

28th, 29th, 30th and 31st. We traveled still along side the Eel River, passing through fine clear woods, and some good meadows, though not so large as those we passed some days before. The country is more overgrown with woods, the soil is sufficiently rich, and well watered with springs.

August 1st. We arrived at the carrying place between the River Miames and the Ouabache, which is about nine miles long

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in dry seasons, but not above half that length in freshes. The head of the Ouabache is about forty miles from this place, and after a course of about seven hundred and sixty miles from the head spring, through one of the finest countries in the world, it empties itself into the Ohio. The navigation from hence to Ouicatanon, is very difficult in low water, on account of many rapids and rifts; but in freshes, which generally happen in the spring and fall, batteaux or canoes will pass, without difficulty, from here to Ouicatanon in three days, which is about two hundred and forty miles, and by land about two hundred and ten miles. From Ouicatanon to Port Vincent, and thence to the Ohio, batteaux and canoes may go at any season of the year. Throughout the whole course of the Ouabache the banks are pretty high, and in the river are a great many islands. Many shrubs and trees are found here unknown to us.

Within a mile of the Twightwee village, I was met by the chiefs of that nation, who received us very kindly. The most part of these Indians knew me, and conducted me to their village, where they immediately hoisted an English flag that I had formerly given them at Fort Pitt. The next day they held a council, after which they gave me up all the English prisoners they had, then made several speeches, in all which they expressed the great pleasure it gave them, to see the unhappy differences which embroiled the several nations in a war with their brethren, the English, were now so near a happy conclusion, and that peace was established in their country.

The Twightwee village is situated on both sides of a river, called St. Joseph. This river, where it falls into the Miame river, about a quarter of a mile from this place, is one hundred yards wide, on the east side of which stands a stockade fort, somewhat ruinous.

The Indian village consists of about forty or fifty cabins, besides nine or ten French houses, a runaway colony from Detroit, during the late Indian war; they were concerned in it, and being afraid of punishment, came to this post, where ever since they have spirited up the Indians against the English All the French residing here are a lazy, indolent people, fond of breeding mischief, and spiriting up the Indians against the English, and should by no means be suffered to remain here. The country is pleasant, the soil rich and well watered. After several conferences with these Indians, and their delivering me up all the English prisoners they had,——

On the 6th of August we set out for Detroit, down the Miames river in a canoe. This river heads about ten miles from hence. The river is not navigable till you come to the place where the river St. Joseph joins it, and makes a considerably large stream. nevertheless we found a great deal of difficulty in getting our canoe over shoals, as the waters at this season were very low. The banks of the river are high, and the country overgrown with lofty timber of various kinds; the land is level, and the woods clear. About ninety miles from the Miames or Twigh-

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twee, we came to where a large river, that heads in a large lick, falls into the Miame river; this they call the Forks. The Ottawas claim this country, and hunt here, where game is very plenty. From hence we proceeded to the Ottawa village. This nation formerly lived at Detroit, but is now settled here, on accout of the richness of the country, where game is always to be found in plenty. Here we were obliged to get out of our canoes, and drag them eighteen miles, on account of the rifts which interrupt the navigation. At the end of these rifts, we came to a village of the Wyondotts, who received us very kindly and from thence we proceeded to the mouth of this river, where it falls into lake Erie. From the Miames to the lake is computed one hundred and eighty miles, and from the entrance of the river into the lake to Detroit, is sixty miles; that is, forty-two miles upon the lake, and eighteen miles up the Detroit river to the garrison of that name. The land on the lake side is low and flat. We passed several large rivers and bays, and on the 16th of August, in the afternoon, we arrived at Detroit river. The country here is much higher than on the lake side; the river is about nine hundred yards wide, and the current runs very strong. There are several fine and large islands in this river, one of which is nine miles long; its banks high, and the soil very good.

17th. In the morning we arrived at the fort, which is a large stockade, inclosing about eighty houses, it stands close on the north side of the river, on a high bank, commands a very pleasant prospect for nine miles above, and nine miles below the fort; the country is thick settled with French, their plantations are generally laid out about three or four acres in breadth on the river, and eighty acres in depth; the soil is good, producing plenty of grain. All the people here are generally poor wretches, and consist of three or four hundred French families, a lazy, idle people, depending chiefly on the savages for their subsistence; though the land, with little labor, produces plenty of grain, they scarcely raise as much as will supply their wants, in imitation of the Indians, whose manners and customs they have entirely adopted, and cannot subsist without them. The men, women, and children speak the Indian tongue perfectly well. In the last Indian war the most part of the French were concerned in it, (although the whole settlement had taken the oath of allegiance to his Britannic Majesty) they have, therefore, great reason to be thankful to the English clemency in not bringing them to deserved punishment. Before the late Indian war there resided three nations of Indians at this place: the Putawatimes, whose village was on the west side of the river, about one mile below the fort; the Ottawas, on the east side, about three miles above the Fort; and the Wyondotts, whose village lays on the east side, about two miles below the fort. The former two nations have removed to a considerable distance, and the latter still remain where they were, and are remarkable for their good sense and hospitality. They have a particular attachment to the

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Roman Catholic religion, the French, by their priests, having taken uncommon pains to instruct them.

During my stay here, I held frequent conferences with the different nations of Indians assembled at this place, with whom I settled matters to their general satisfaction.

September 26th. Set out from Detroit for Niagara; passed Lake Erie along the north shore in a birch canoe, and arrived the 8th of October at Niagara. The navigation of the lake is dangerous for batteaux or canoes, by reason the lake is very shallow for a considerable distance from the shore. The bank, for several miles, high and steep, and affords a harbor for a single batteaux. The lands in general, between Detroit and Niagara, are high, and the soil good, with several fine rivers falling into the lake. The distance from Detroit to Niagara is computed three hundred miles.

A List of the different Nations and Tribes of Indians in the Northern District of North America, with the number of their fighting Men.

Names of the Tribes.	*No.*	*Their Dwelling Ground.*	*Their Hunting Grounds.*
Mohocks, *a* - - - - -	160	Mohock River.	Between that and Lake George.
Oneidas, *b* - - - - -	300	East side of Onedia Lake, & on the head waters of the east branch of Susquehannah.	In the country where they live.
Tuscaroras, *b* - - - -	200	Between the Oneidas and Onandagoes.	Between Oneida Lake & Lake Ontario.
Onandagoes, *b* - - - -	260	Near the Onandago Lake.	Between Onandago L. & mouth of Seneca River, near Oswego
Cayugas, *b* - - - - -	200	On two small Lakes, called the Cayugas, on the north branch of Susquehannah.	Where they reside.
Senecas, *b* - - - - -	1000	Seneca Country, on the waters of Susquehannah, the waters of Lake Ontario, and on the heads of Ohio River.	Their chief hunting country thereabouts.
Aughquagas, *c* - - - -	150	East branch of Susquehannah River, and on Aughquaga.	Where they live.
Nanticokes, *c* - - - -	100	Utsanango, Chaghmett, Oswego, and on the east branch of Susquehannah.	Do.
Mohickons, *c* - - - -	100		
Conoys, *c* - - - - - -	30		
Monsays, *c* - - - - -	150	At Diahogo, and other villages up the north branch of Susquehannah.	Do.
Sapoones, *c* - - - - -	30		
Delawares, *c* - - - -	150		
Delawares, *d* - - - -	600	Between the Ohio & Lake Erie, on the brch's of Beaver Cr'k, Muskingum and Guyehugo.	Do.
Shawnesse, *d* - - - -	300	On Scioto & brch of Muskingum.	Do.
Mohickone, *d* - - - -	300	In Villages near Sandusky.	On the head banks of Scioto.
Coghnawages, *d* - - -			

a These are the oldest Tribe of the Confederacy of the Six Nations.
b Connected with New York, part of the Confederacy with New York.
c Connected with, and depending on the Five Nations.
d Dependent on the Six nations, and connected with Pennsylvania.

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Names of the Tribes.	Nos.	Their Dwelling Ground.	Their Hunting Grounds.
Twightwees, *e* - - -	250	Miame River, near Fort Miame,	On the ground where they live.
Wayoughtanies, *f* - -	300	On the branches of Ouabache, near Fort Ouitanon.	Between Outanon & the Miames.
Pyankeshas, *f* - - - -	300		
Shockays, *f* - - - - -	200		
Huskhuskeys, *g* - - -	300	Near the French settlements, in the Illinois Country.	
Illinois, *g* - - - - - -	300		
Wayondotts, *h* - - -	250	Near Fort Detroit.	About Lake Erie.
Ottawas, *h* - - - - -	400		
Putawatimes, *h* - - -	150		
Chipawas *i* / Ottawas, - - - -	200	On Saganna Creek, which empties into Lake Huron.	Thereabouts.
Chippawas, *j* - - - -	400	Near Michilimachinac.	On the north side of Lake Huron.
Ottawas, *j* - - - - -	260		
Chipawas,* *k* - - - -	400	Near the entrance of Lake Superior, and not far from Fort St. Mary's.	Thereabouts.
Chepawas, *k* / Mynonamies, *k* / Shockeys, *k* - -	550	Near Fort Labay on the Lake Michigan.	Thereabouts.
Putawatimes, *k* - - -	150	Near Fort St. Joseph's.	Thereabouts.
Ottawas, *k* - - - - -	150		
Kicapoos, *l* / Outtagamies, *l* / Musquatans, *l* / Miscotins, *l* / Outtamacks, *l* / Musquaykeys, *l* -	4000	On lake Michigan and between it and the Mississippi.	Where they respectively reside.
Oswegatches, *h* - - -	100	Settled at Swagatchy in Canada, on the river St. Lawrence.	Thereabouts.
Connesedagoes, *k* / Coghnewagoes, *k*	300	Near Montreal.	
Orondocks, *k* - - - -	100	Settled near Trois Rivers.	
Abonakies, *k* - - - -	150		
Alagonkins, *k* - - -	100		
La Suil, † - - - - -	10,000	South-west of Lake Superior.	

e Connected with Pennsylvania,
f Connected with the Twightwees.
g These two Nations the English had never any trade, or connection with.
h Connected formerly with the French.
i Connected with the Indians about Detroit, and dependent on the commanding officer.
j Always connected with the French.
k Connected with the French.
l Never connected in any trade or otherwise with the English.

* There are several villages of Chipawas settled along the bank of Lake Superior, but as I have no knowledge of that country, cannot ascertain their numbers.

† These are a nation of Indians settled south-west of Lake Superior, called by the French La, Sue, who, by the best account that I could ever get from the French and Indians, are computed ten thousand fighting men. They spread over a large tract of country, and have forty odd villages; in which country are several other tribes of Indians, who are tributaries to the La Sues, none of whom except a very few, have ever known the use of fire-arms: as yet but two villages. I suppose the French don't choose to risk a trade among such a powerful body of people, at so vast a distance.

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TREATY OF FORT STANWIX.

It is due to the Hon. Richard M. Johnson, to acknowledge my obligations to his liberal spirit, (so constantly experienced by his fellow citizens,) in obtaining the following copy of this interesting treaty from the library of the Congress of the United States. No copy is believed to exist in the archives of any of the States, from the abortive enquiries of the Washington administration. It has therefore been thought best, to publish the treaty entire; and to prefix the preliminary matter, as explanatory of its history.

It is the corner stone of the political relations between the citizens of the United States immediately south of the Ohio river, and the Indians. It has been objected to the cession made by this treaty, that the Six Nations who constitute one of the parties to the treaty, have, by it, ceded the hunting grounds of tribes quite removed from themselves. To this objection of a curious and able enquirer* into western history, in all its relations, two answers are suggested to the mind of the author.

1. That some of the tribes conterminous to the ceded territory did appear at this treaty, which was so numerously attended by the Indians, and made no objection to its cessions. These were the Shawanees and Delawares; who are called in the treaty, "dependent tribes" of the Six Nations. The circumstance of no protest from these Indians, particularly from so distinguished a chief as Killbuck, gives strong confirmation to the claim of the Six Nations. 2. By the uniform tenor of the colonial authorities, both French and English, the dominion and paramount authority of the Six Nations is extended to the Mississippi and the Illinois. Such is the bearing of the authorities quoted in the text.

Still the subject is not without its difficulties. General Harrison well remarks, how difficult, not to say impracticable, it was for the Six Nations to have stretched their authority over the numerous and ferocious tribes of the Miami confederacy. These, in recent times, covered the banks of the northwestern streams with their villages; nor could they have been overcome by the ordinary military means of hunting tribes, and still left in their native seats. Had they have been assailed successively, as the Illinois tribes were by the Sauks or Saukies, they could have been either extirpated or removed. Neither condition was that of the Miamis; although one of their tribes, the Wyandots, was driven by the Senecas of the northern confederacy to shelter themselves in the country of Lake Michigan.

Pastoral, or agricultural resources are alone competent to support such wide spread dominions, as those assigned to the Six Nations, by the colonial authorities. Nor is it perfectly certain that the colonists may not have been deceived by the claims

* Dr. D. Drake, in a "Discourse before the Cincinnati Lyceum, December the 20th, 1832, being the forty-fourth anniversary of the settlement of the town."

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of these tribes. Yet Sir William Johnson was a veteran Indian diplomatist, and Colonel Croghan, his deputy agent, who was present at the treaty, had descended the Ohio river, and had personal communications with the Miami and Illinois tribes, as early as 1765,* three years before the treaty in question. The course of the Ohio river, (though in a curious old map† in the possession of General Harrison, that river is represented as running into Lake Erie,) is with tolerable accuracy delineated in Colden's History of the Five Nations. Were these gentlemen likely to be imposed upon? Is not the silence of any protesting tribe, or individual, in so numerous, so public and amicable an assemblage of the natives, expressive evidence? Which, then, is the more probable hypothesis; that of our western philosophical critic, that both the Indians and the white people thought themselves contending for their rights, while each was ignorant of the colorable title of the other? or, that the cession of the Six Nations was a valid cession in moral, as well as political law, and agreeable to the most solemn and ancient usages, which had immemorially regulated the intercourse between the aborigines and the Europeans, with their descendants? The latter opinion strikes the author as the least refined, and most accordant with the probabilities of the circumstances. Still there are other treaty rights acquired by the British crown, and consequently transferred to the United States as its successors, which are mentioned in the text, independent of the treaties which have since been dictated, under the influence of the American arms. It must likewise be remarked, that at the treaty of 1785, at Fort M'Intosh, the Wyandots, Delawares, Chippewas and Ottawas were parties; and that at the treaty of Fort Harmar, at the mouth of Muskingum, in 1789, the above tribes, and the Puttawatamies or Pottawatamies, and Sacs, were parties.‡ These tribes, all bordering on Kentucky, and some of them allies, and others members of the Miami or western confederacy, relinquished their territorial claims south of the Ohio river, and east, successively, of the Big Miami, and of the Little Kentucky.

AUTHOR.

TREATY OF FORT STANWIX, 1768.

From the Virginia Gazette, of December 1st, 1768.

"NEW YORK, November 27th, 1768.

"His Excellency, William Franklin, Esq., Governor of New Jersey, the Hon. Frederick Smyth, Esq., Chief Justice of New Jersey, Thomas Walker, Esq., Commissioner from Virginia, and the Rev. Mr. Peters and James Tilghman, Esq., of the Council of Pennsylvania, with several other gentlemen, returned here a

* See first article in this Appendix.

† Published by Corrington Bowles, St. Paul's Churchyard. London.

‡ Land Laws of the United States, p. 148.

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few days ago from Fort Stanwix, where they have been attending the Congress held by Sir William Johnson, Baronet, with the Six United Indians and their tributaries.

"We hear that about three thousand two hundred Indians from the different tribes of the Mohawks, Oneidas, Onondagoes, Senecas, Cayugas, Tuscaroras, Coghnowagos, Onoghguagos, Tutulos, Shawanese, Delawares, Mingoes of Ohio, Nantichokes, Conoys, Chughnuts, Schoras, and Orifcas, met Sir William at Fort Stanwix, on the very important business recommended by the King's ministers; and we have now the pleasure of assuring our readers that by his unwearied application, address, and extraordinary influence, (which never appeared more conspicuous than on this occasion,) the Six Nations and all their tributaries have granted a vast extent of country to his majesty, and to the Proprietaries of Pennsylvania, and settled an advantageous boundary line between their hunting country and this, and the other colonies to the southward as far as the Cherokee river, for which they received the most valuable present in goods and dollars that was ever given at any conference since the settlement of America. An uncommon sobriety and good humor prevailed through all the numerous Indian camps for above seven weeks, and the sachems and warriors departed from the Congress in a very happy disposition of mind, from a firm persuasion that his majesty will gratify them in their just and reasonable expectations. It is therefore earnestly to be hoped that this grand cession and boundary will be rightly improved, as they will undoubtedly secure the future tranquillity of these colonies, and be productive of lasting commercial advantages to them and Great Britain."

Extracts from "Plain Facts: (pp. 66 to 96;) being an Examination into the Rights of the Indian Nations of America, to their respective Countries; and a Vindication of the Grant, from the Six United Nations of Indians, to the Proprietors of Indiana, against the Decision of the Legislature of Virginia; together with Authentic Documents, proving that the Territory, westward of the Allegany Mountain, never belonged to Virginia, &c. Philadelphia, printed and sold by R. Aitken, 1781."

On the 19th of January, 1768, the Speaker of the Assembly, and the Committee of Correspondence of Pennsylvania wrote, by order of the House, to Richard Jackson and Benjamin Franklin, Esqs., Agents for the province, at the Court of Great Britain, "That the non-establishment of a *boundary* negotiated about three years ago, by his majesty's orders to Sir Wm. Johnson, between *these colonies and the Indian country*, is the cause of Indian jealousy and dissatisfaction; the delay of the confirmation of the boundary, the natives have warmly complained of, and although they have received no consideration for the lands agreed *to be ceded to the crown*, on *our side* of the boundary, yet that its subjects are daily settling and occupying these very lands."

On the 6th of May, 1768, the Six Nations made a speech at

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Fort Pitt, to the King's Deputy Superintendent of Indian Affairs, and said: "Brother, it is not without grief that we see our country settled by you, without our knowledge or consent, and and it is a long time since we first complained to you of this grievance." They subjoined, "The settlers must be removed from our lands, as *we look upon it, they will have time enough to settle them, when you have purchased them, and the country become yours.*"

On the 31st of May, 1768, the General Assembly of Virginia being met, the President of his majesty's Council (John Blair, Esq.) opened the sessions with the following speech:

"Gentlemen of the Council, Mr. Speaker, and Gentlemen of the House of Burgesses: Our late worthy Governor having designed to meet you here at this time, the reasons of that his intention having been reconsidered by me in council, and the objects for your consideration he had to lay before you, having been judged to be of such importance to the honor and service of his majesty; to the security, ease, and happiness of the people, that I was advised (as the administration devolved on me) to renew the proclamation for your meeting.

"By letters from his excellency General Gage, Commander in Chief of his majesty's forces, and from Sir William Johnson, Superintendant of Indian Affairs, (which I shall cause to be laid before you,) it will appear, that a set of men regardless of the laws of natural justice, unmindful of the duties they owe to society, and in contempt of royal proclamations, *have dared to settle themselves upon the lands near Red-stone Creek and Cheat River, which are the property of the Indians;* and notwithstanding the repeated warnings of the danger of such lawless proceedings, and the strict and spirited injunctions to them to desist, and quit their unjust possessions; they still remain unmoved, and seem to defy the orders and even powers of government."

As soon as Richard Jackson and Benjamin Franklin, Esqs. received the foregoing instructions from the General Assembly of Pennsylvania, (on preceding page) they waited on the British Secretary of State, and showed the necessity of immediate orders being sent to the Superintendent of Indian Affairs, for finishing the boundary line which had been begun in the year 1764.

In the spring of the year 1768, Sir William Johnson received the King's commands and instructions to complete the purchase of the lands from the *Allegany* Mountain to the River *Ohio, &c.*, and accordingly he gave the earliest notice thereof to the governments of *Virginia, Pennsylvania, New Jersey*, &c., and to the *Six Nations* and the *Delawares*, and other Indians residing upon the river *Ohio*, and appointed a Congress to be held with them in the autumn, (for the purpose of carrying the king's orders into execution,) at Fort Stanwix, in the province of New York.

In December, 1768, Arthur Lee, Esq., late commissioner to the Court of France, from the United States of North America, presented a petition to the king of England in Council, praying, in the following words, on behalf of himself and forty-nine other

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gentlemen: "That your majesty would grant to his petitioners, to be fifty in number, by the name of the Mississippi Company, two millions and five hundred thousand acres of land, in one or more surveys, to be located or laid off between the *thirty-eighth* and *forty-second degrees of north latitude, the Allegany Mountain to the eastward*, and *thence westward to the dividing line*, (the running of which your majesty has been lately pleased to order,) and that your petitioners shall have liberty of holding these lands twelve years or any greater number that your majesty shall approve (after survey of them be made and returned) *clear* of all imposition money, quit-rents or taxes; and that your petitioners shall be obliged to seat the said lands within twelve years, with two hundred families at least, if not interrupted by the savages or some foreign enemy, and return the survey thereof *to such office as your majesty shall be pleased to direct*, otherwise to forfeit the grant.

"Your petitioners humbly hope, that your majesty may be graciously pleased to grant these fovorable terms, in consideration of the heavy charges, great expense, dangers, hardships, and risks they must necessarily incur in the exploring, surveying, and settling *this distant country;* and because it appears from reason and experience, that large tracts of land taken up by companies, may be retailed by them to individuals much cheaper *than the latter can obtain them from the crown*, embarrassed as such individuals must be with the charges arising from the solicitation of patents, making surveys, and other contingent expenses, together with the difficulty the poorer sort are under from their ignorance of the *proper methods to be pursued*, as well as their inability to advance ready money for such purposes; whereas from companies they have only to receive their conveyances without any previous expense, and are indulged with credit till their industry enables them to make payments; a method so encouraging, that it cannot fail of answering the intention of speedily populating *this your majesty's territory, so as to be profitable to the crown, and useful to the state*. And though attempts to settle in this way, have sometimes failed in the hands of gentlemen possessed of affluent fortunes, in consequence of an indolence and inattention frequently attending persons in such circumstances, especially when not excited by the prospect of immediate and considerable profit; yet the greater part of the present adventurers being of good families, and considerable influence in the countries where they live, though possessed of but moderate estates, are induced, from the goodness of the soil, and climate *of the country beyond the mountains*, to believe, that by a proper application of their money and industry, they shall acquire a sure and happy provision for their children; which pleasing prospect, animated with a view of public utility, will conduct all their affairs with that spirited assiduity, which; only in matters of danger and difficulty, can ensure success. In pursuance of this, several of the members are determined to be themselves among the first settlers; *the dearness and pre-occu-*

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pancy of the lands, within their respective Colonies, rendering it impracticable to make a proper landed provision for their numerous families; a circumstance which begins already to restrain early marriages, and therefore speedy population. In consideration of the reasons here offered, your petitioners most humbly pray your majesty will be graciously pleased to grant their humble request, and as in duty bound your petitioners will ever pray.

The Hon. Presley Thornton.	Henry Fitzhugh.
The Hon. Benedict Calvert.	Samuel Washington.
Thomas Ludwell Lee.	W. Fitzhugh, of Marmion.
Thomas Cumming.	William Brent.
Francis Lightfoot Lee.	W. Fitzhugh, of Somerset.
Capt. William Fitzhugh.	Richard Parker.
Francis Thornton.	William Booth.
Stephen Sayre.	Rev. Henry Addison, A.
Richard Henry Lee.	Robert Woodrop.
Col. George Washington.	John Baylor.
Col. Adam Steven.	Bernard Moore.
Thomas Simpson.	Ralph Wormely.
William Flood.	Warner Lewis, jun.
William Borekenborough.	Mann Page.
Anthony Stuart.	John Alexander.
William Lee.	Cuthbert Bullitt.
Arthur Lee, M. D. F. R. S.	Henry Royer.
J. Augustine Washington.	John Turberville.
December, 1768.	Arthur Lee, Agent.

On the back of this petition is endorsed these words and figures:

16th December, 1768.
Read and referred to a Committee,
9th March, 1769.
Read at the Committee, and referred to the
Board of Trade.

We shall make but one short observation upon this petition. It speaks for itself, and shows, that the respectable petitioners (mostly *Virginians*) were not of the number of those gentlemen in Virginia, who now, without the least reason of justice, assert, that the "*distant country*," over the Allegany Mountain, is within that government.

On the 24th of October, 1768, the Congress at Fort Stanwix was opened. Present—

The Honorable Sir Wm. Johnson, Baronet, his majesty's Superintent of Indian Affairs.
His Excellency Wm. Franklin, Esq., Governor of New Jersey.
Thomas Walker, Esq., Commissioner for the Colony of Virginia.
Hon. Frederick Smith, Chief Justice of New Jersey.
Richard Peters, and James Tilghman, Esqs., of the Council of Pennsylvania.
George Croghan, and Daniel Claus, Esqs., Deputy Agents of Indian Affairs.

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Guy Johnson, Esq., Deputy Agent, and acting as Secretary; with several gentlemen from the different Colonies.

John Butler, Esq.
Mr. Andrew Montour, } Interpreters for the Crown.
Philip Philips.

Indian Chiefs present.

Mohawks.
Abraham.
Kanadagaya.
Kendrick.
Aroghiaecka.
Kayenqueregoa.
Tobarihoga.
Anohario, &c.

Oneidas.
Ganaghquieson.
Nicholasera.
Senughsis.
Gajuheta.
Tagawaron, &c.

Onandagoes.
The Bunt.
Tewaruir.
Diaquanda.
Tawashughts, &c

Cajugas.
Tagaaia.
Shanarady.
Atrawawna, &c.

Shawnese.
Benevissica.

Senecas
Gaustrax.
Odengot, &c.

Tuscaroras.
Saquareesera.
Kanigot.
Tyagawehe, &c.

Delawares.
Killbuck.
Turtleheart.

The whole assembly being seated, Mr. Walker rose, and delivered to Sir Wm. Johnson his authority to sit and act as *Commissioner for Virginia.*

"John Blair, Esq., President of his majesty's Council, and Commander in Chief of the Colony and Domnion of Virginia,

"*To Thomas Walker, Esq.*

"By virtue of the power and authority to me committed, as President of his majesty's Council, and Commander in Chief in and ver this colony and dominion of Virginia, I do hereby appoint you, the said Thomas Walker, to be Commissioner of Virginia, *to settle* a *boundary line* between this colony and the colonies of Pennsylvania and Maryland, *and the several nations of Indians concerned.* You are required to attend at a Congress to be held for that purpose, under the direction of Sir William Johnson, agreeable to his majesty's instructions, when you are to pay a due regard to the interest of his majesty, and such instructions as you shall receive from me.

"Given under my hand and seal of the colony at Williamsburg, this 17th of June, and in the eighth year of his majesty's reign, anno domini, 1768.

JOHN BLAIR."

Messrs. Peters and Tilghman were likewise admitted as Commissioners for Pennsylvania.

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Sir Wm. Johnson then, by Abraham, a Chief of the Mohawks, addressed the Indians in the following manner:

Brethren—I take you by the hand, and heartily bid you all welcome to this place, where I have kindled a council fire for affairs of importance. The Governor of New Jersey, and the Commissioners of Virginia and Pennsylvania, do likewise welcome you here. Lieutenant Governor Penn came hither, and waited a considerable time, but was at length, by business, obliged to return home, leaving these gentlemen Commissioners on behalf of Pennsylvania.

Brethren—Hearken to me, who have good words to speak to you, such as are for the benefit of your whole confederacy, and of your children yet unborn.

You all remember that three years ago I signified to you *his majesty's desire to establish a boundary line* between his people and yours; and that we then agreed together, how some part of that line should run, whenever the same came to be settled.

You all, I am hopeful, recollect the reasons I then gave you for making *such a boundary;* nevertheless, I shall again repeat them. You know, brethren, that the encroachments *upon your lands* have been always one of your principal subjects of complaint; and that, so far as it could be done, endeavors have not been wanting for your obtaining redress. But it was a difficult task, and generally unsuccessful; for, although the provinces have bounds between each other, *there are no certain bounds between them and you;* and thereby, not only several of our people, ignorant in Indian affairs, have advanced *too far into your country,* but also many of your own people, through the want of such a line, *have been deceived in the sales they have made,* or in the limits they have set to our respective claims. This brethren is a sad case, which has frequently given us much trouble, and turned many of your heads; but it is likely to continue so, until some bounds are agreed to, fixed upon, and made public between us. The great, the good king of England, my master, whose friendship and tender regard for your interests I wish you may ever hold in remembrance, has, amongst other instances of his goodness, after long deliberation on some means for your relief, *and for preventing future disputes concerning lands,* at length resolved upon fixing a *general boundary line* between his subjects and you, and that in such a manner as shall be most agreeable to you: in consequence of which, I have received his royal commands to call you together for the establishment thereof; and after conferring with the governments interested hereupon, you now see before you the Governor of the Jerseys, the Commissioners on behalf of Aseregoa, Governor of Virginia, and Commissioners from Pennsylvania, in order to give you the strongest assurances on behalf of their respective governments, of their resolutions to pay due regard to what shall be now entered into: the presence of so many great men *will give a sanction to the transaction,* and cause the same to be known as far as the English name extends. His majesty has directed me

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to give you a handsome proof of his generosity, *proportioned to the nature and extent of what lands shall fall to him.* Upon the whole, I hope that your deliberations will be unanimous, and your resolutions such as his majesty may consider as proofs of your gratitude for all his favors. *A fine new belt.*

Brethren—The importance of the affairs now before us, requires the most serious attention. I will not burthen you with any other subject until this is generally settled; and therefore we shall adjourn, that you may have time to think of it, and come fully prepared to give an agreeable answer.

Then Abraham, a Chief of the Mohawks, after repeating what Sir William Johnson had said, addressed him thus:

Brother—We give you thanks for what you have said to us at this time. It is a weighty affair, and we shall, agreeably to your desire, take it into our most serious consideration. We are glad *that so many great men are assembled to bear witness of the transaction;* and we are now resolved to retire and consult on a proper answer to be given to all you have said; and so soon as we have agreed upon it, we shall give you notice, that we may again assemble and make it known to you; and we are all much obliged to you, that you have directed us to attend to this great affair alone at this time, that our minds might not be burdened or diverted from it by attending to any thing else.

FORT STANWIX, October 31, 1768.

A deputation from the Six Nations waited upon Sir William Johnson, and informed him, that a Chief and Warrior of each nation would attend him and deliver their *final* resolves, which should be made *public* to-morrow. A map being laid before them, they observed that what they had to say, were the *final* resolves of all the nations, and added that they would, agreeably to their just right, begin the *line* at the *Cherokee river*, &c. (Vide the boundaries in their grant to the King, p. 390.) This, they said, they delivered as their final determinations, *subject to several conditions* for the security of their possessions, *and engagements entered into.*

At a general Congress held at Fort Stanwix with the Six Nations and other Indians, on Tuesday, November the 1st, 1768. Present as at the former meeting.

The Indians being all seated, they desired to know whether Sir William was prepared to hear them; and, on being answered in the affirmative, the *speaker* stood up, and spoke as follows:

Brother—We are hopeful that you will not take it amiss that we have delayed till now our public answer on the subject you recommended to us. This was a great and weighty matter, requiring long deliberation, and should not be undertaken lightly. We have accordingly considered it, and are now come to give you our *final* resolutions thereon, to which we beg your attention.

Brother—We remember that on our *first* meeting with you, when you came *with your ship*, we kindly received you, enter-

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tained you, and entered into an alliance with you, though we were then great and numerous, and your people inconsiderable and weak; and we know that we entered into *a covenant chain of bark* with you, and fastened your ship therewith; but, being apprehensive the *bark* would break, and your ship be lost, we made *one of iron*, and held it fast, that it should not slip from us; but, perceiving the former chain was liable to *rust*, we made a *silver chain* to guard against it. *Then*, brother, you arose, renewed that chain, which began to look dull, and have for many years taken care of our affairs by the command of the great King; and *you*, by *your* labors, have polished that chain, so that it has looked bright, and is become known to all nations; for all which we shall ever regard you; and we are thankful to you, in that you have taken such care of these great affairs, of which we are always mindful, and we do now, on our parts, renew and strengthen the covenant chain, by which we will abide so long as you shall preserve it strong and bright on your part. *A belt.*

Then, after repeating all that had been said *concerning the line*, the speaker proceeded:

Brother—We have long considered *this proposal for a boundary between us*, and we think it will be of good consequence if you, on *your* parts, pay a due regard to it; and we, in consequence thereof, have had sundry meetings amongst ourselves and with you; and from all that you have said to us thereon, we have at length come to a *final* resolution concerning it, and we hope that what is now agreed upon shall be inviolably observed *on your parts*, as we are determined it shall be *on ours;* and that no further attempts will be made *on our lands, but that this line be considered as final;* and we do now *agree* to the *line* we have marked upon your map, now before you, on *certain conditions*, on which we have spoken, and shall say no more; and we desire *that one article of this our agreement be, that none of the provinces* or their people shall attempt to invade it, UNDER COLOR OF ANY OLD DEEDS, or other pretences whatsoever; for in many of these things we have been imposed on, and therefore we disclaim them all. Which bounds, now agreed to, *we begin on the Ohio, at the mouth of the Cherokee river, which is our just right; and from thence we go up, on the south side of the Ohio, to Kitanning, above Fort Pitt; from thence a direct line to the nearest fork of the west branch of the Susquehannah; thence through the Allegany mountains, along the south side of the said west branch, till we come opposite to the mouth of the creek called Tiadaghton; thence across the west branch, and along the east side of that creek, and along the ridge of Burnet's hills, to a creek called Awandae; thence down the same to the east branch of Susquehannah, and across the same, and up the east side of that river to Owegy; from thence eastward to Delaware river, and up that river to opposite where Tianaderrah falls into Susquehannah; thence to Tianaderrah, and up the west side thereof, and its west branch, to the head thereof; thence by a straight line to the mouth*

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of Canada creek, where it empties itself into Wood creek, at the end of the long carrying place beyond Fort Stanwix. And this we declare to be our final resolves, and we expect that the conditions of this our grant will be observed. *A belt.*

Brother—Now as we have made so large a cession *to the King*, of such a valuable and extensive country, we do expect it, as the terms of our agreement, that strict regard be paid to all our reasonable desires. We do now, in this case, on behalf and in the name of all our warriors of every nation, CONDITION, that our warriors shall have the liberty of hunting throughout the country; as they have no other means of subsistence, and as your people have not the same occasions or inclinations; that the white people be restricted from hunting on our side of the line, to prevent contention between us. *A belt.*

Brother—By this belt we address ourselves to the great King of England, through you, our superintendent, in the name and in behalf of all the Six Nations, Shawnesse, Delawares, and all other our friends, allies, and dependents; we now tell the King, that we have given to him a great and valuable country; and we know, that what we shall now get for it must be far short of its value: we make it a condition of this our agreement concerning the line, that his majesty will not forget or neglect to show us his favor, or suffer the chain to contract rust; but that he will direct those who have the management of our affairs to be punctual in renewing our ancient agreements: That as the Mohawks are now within the line which we give to the King, and that these people are the true old heads of the whole confederacy, their several villages, and all the land they occupy, unpatented about them, as also the residences of any other of our confederacy affected by this cession, shall be considered as their sole property, and at their disposal, both now and so long as the sun shines; and that all grants or engagements they have now or lately entered into, shall be considered as independent of this boundary;* so that they, who have so little left, may not lose the benefit of the sale of it; but that the people, with whom they have agreed, may have the land. We likewise further condition, on behalf of all the Six Nations, and of all our allies, friends, and nephews, our dependents, that as we have experienced how difficult it is to get justice, or to make our complaint known, and that it is not in the power of our superintendent to take care of our affairs in different places without the King's help, that his majesty will give him help and strength to do us justice, and to manage our affairs in a proper manner. We all know the want of this, and we make it a point of great consequence, on which this our present agreement is to depend, and without which affairs will go wrong, and our heads may be turned.

Brother—We likewise desire, that as we have now given up a great deal of lands within the bounds that Mr. Penn claimed a

* This related to lands on the Susquehannah, &c.

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right of buying, that he may, in consequence of the agreement* now entered into between us, enjoy what we have given within those limits. And as we know, that Lydius of Albany did, in the name of several persons, lay claim to lands in Pennsylvania, which we know to be unjust; and that the deeds he pretends a right to, were invalid, we expect that no regard will be paid to them, or any such claims, now or hereafter; as we have fairly sold them to the proprietors of Pennsylvania, to whom alone we shall sell lands within that province; and we shall now give them a deed for that and other lands there. And in order to shew that we love justice, we expect the traders, who suffered by some of our dependents in the wars five years ago, may have a grant for the lands we now give them down Ohio, as a satisfaction for their losses. And as our friend, Mr. Croghan, long ago got a deed for lands from us, which may now be taken into Mr. Penn's lands; should it so happen, we request that it may be considered, and that he may get as much from the King somewhere else, as he fairly bought it. And as we have given enough to shew our love for the King, and make his people easy, in the next place, we expect, *that no old claims*, which we disavow, or *new encroachments*, may be allowed of.†

Brother—We have now gone through this matter, and we have shewn ourselves ready to give the King whatever we could reasonably spare; we, on *our parts*, express our regard for him, and we hope for *his favor* in return. Our words are strong, and our resolutions firm; and we expect that our requests will be complied with, inasmuch as we have so generously complied with all that has been desired, as far as was consistent with our interest. *A belt.*

At a general congress held at Fort Stanwix, with the Six Nations, and other Indians, &c., on Friday, November 4, 1768, Sir William Johnson, addressing himself to them, spoke as follows:

Brothers—I am glad the boundary is at length agreed upon; and as I have great reason to think it will be duly observed by the English, I recommend it to you to preserve it carefully in remembrance; to explain it fully to those that are absent; and to teach it to your children, &c. I now give you this belt, to strengthen, ratify, and confirm the boundary, and all transactions necessary thereto. *A belt.*

Brothers—I consider your good intentions towards the traders who sustained the losses, and your desire to fulfill all your engagements, as instances of your integrity. I wish that you may, on your parts, carefully remember and faithfully observe

* The proprietors of Pennsylvania bought of the Six Nations a large tract of country at this congress, and on receiving their deed of conveyance for the same, the said proprietors paid the Six Nations 10,000 Spanish milled dollars; being the consideration money for the said tract.

† The Six Nations here farther make it a condition, that no *old* claims should be allowed. This was expressly made to remove all pretensions on the part of Virginia, to the lands *westward* of the Allegany mountains, under the *Lancaster deed;* as they repeatedly said that they had been *cheated* and *deceived* at the treaty held at Lancaster, 1744.

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the engagements you have now, as well as formerly, entered into with the English, and that you may every day grow more sensible how much it is your interest to do so.

Sir William Johnson, addressing himself to the *Governor of New Jersey*, and the *Commissioners*, said:

Gentlemen—Agreeable to his majesty's intentions, signified to me by the Secretary of State, and for the satisfaction of the several nations here assembled, I take the liberty to recommend it strongly to your several provinces, to enact the most effectual laws for the due observance of the line, and the preventing all future intrusions; as the expectation thereof, and the reliance the Indians have on your justice, from the assurance I have given them on that head, have proved great inducements to the settlement of the line now established between the colonies and them.

To which the Governor and Commissioners answered: Nothing should be wanting on their parts to the obtaining such security for the boundary as was deemed necessary, on their return to their respective colonies.

GRANT FROM THE SIX UNITED NATIONS TO THE KING OF ENGLAND.

To all to whom these presents shall come, or may concern:—We, the sachems and chiefs of the Six Confederate Nations, and of the Shawnesse, Delawares, Mingoes of Ohio, and other dependent tribes, on behalf of ourselves, and of the rest of our several nations, the chiefs and warriors of whom are now here convened by Sir William Johnson, baronet, his majesty's superintendent of our affairs, send greeting:

Whereas his majesty was graciously pleased to propose to us, in the year one thousand seven hundred and sixty-five, that a boundary line should be fixed between the English and us, to ascertain and establish our limits, and prevent those intrusions and encroachments, of which we had so long and loudly complained; and to put a stop to the many fraudulent advantages which had been so often taken of us; which boundary appearing to us as a wise and good measure, we did then agree to a part of a line, and promised to settle the whole finally, whensoever Sir William Johnson should be fully empowered to treat with us for that purpose:

And whereas his said majesty has at length given Sir William Johnson orders to complete the said boundary line between the provinces and Indians; in conformity to which orders, Sir William Johnson has convened the cheifs and warriors of our respective nations, *who are the true and absolute proprietors of the lands in question*, and who are here now to a very considerable number:

And whereas many uneasinesses and doubts have arisen amongst us, which have given rise to an apprehension that *the line* may not be strictly observed on the part of the English, in which case matters may be worse than before; which apprehen-

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sion, together with the dependent state of some of our tribes, and other circumstances; retarded the settlement, and became the subject of some debate; Sir William Johnson has at length so far satisfied us upon it, as to induce us to come to an agreement concerning *the line*, which is now brought to a conclusion, the whole being fully explained to us in a large assembly of our people, before Sir William Johnson, and in the presence of his excellency the Governor of New Jersey, the Commissioners from the provinces of Virginia and Pennsylvania, and sundry other gentlemen; by which line so agreed upon, a considerable tract of country, *along several provinces, is by us ceded to his said majesty*, which we are induced to, and do hereby ratify and confirm to his said majesty, from the expectation and confidence we place in his royal goodness, that he will graciously comply with our humble requests, as the same are expressed in the speech of the several nations, addressed to his majesty, through Sir William Johnson, on Tuesday, the first day of the present month of November; wherein we have declared our expectations of the continuance of his majesty's favor, and our desire that our ancient engagements be observed, and our affairs attended to by the officer who has the management thereof, enabling him to discharge all the matters properly for our interest: That the lands occupied by the Mohocks, around their villages, as well as by any other nation affected by this our cession, may effectually remain to them, and to their posterity; and that any engagements regarding property, which they may now be under, may be prosecuted, and our present grants* deemed valid on our parts, with the several other humble requests contained in our said speech:

And whereas, at the settling of the said line, it appeared that the line described by his majesty's order, was not extended to the northward of Owegy, *or to the southward of Great Kanhawa river;* we have agreed to and continued *the line* to the northward, on a supposition that it was omitted, by reason of our not having come to any determination concerning its course, at the congress held in one thousand seven hundred and sixty-five: And inasmuch as the *line* to the northward became the most necessary of any, for preventing encroachments on our very towns and residences; and we have given this line more favorably to Pennsylvania, for the reasons and considerations mentioned in the treaty: we have likewise continued it *south to the Cherokee river*, because the same is, and we do declare it to be *our true bounds with the southern Indians, and that we have an undoubted right to the country as far south as that river*, which makes our cession to his majesty much more advantageous than that proposed:

Now, therefore, know ye, that we, the sachems and chiefs aforementioned, native Indians and proprietors of the lands

* The grants which the Six Nations *then* made, and are *here* alluded to, were as follows: *one* to Mr. Trent; *one* to George Croghan, Esq.; and *one* to Messrs. Penn, proprietors of the province of Pennsylvania.

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hereafter described, for and in behalf of ourselves and the whole of our confederacy, for the considerations herein before mentioned, and also for and in consideration of a valuable present of the several articles in use amongst Indians, which, together with a large sum of money, amount, in the whole, to the sum of ten thousand four hundred and sixty pounds seven shillings and three pence sterling, to us now delivered and paid by Sir William Johnson, baronet, his majesty's sole agent and superintendant of Indian affairs for the northern department of America, in the name and behalf of our sovereign lord George the Third, by the grace of God, of Great Britain, France and Ireland, King, Defender of the Faith; the receipt whereof we do hereby acknowledge; we, the said Indians, have, for us, our heirs and successors, granted, bargained, sold, released and confirmed, and by these presents, do grant, bargain, sell, release and confirm, unto our said sovereign lord King George the Third, all that tract of land situate in North America, *at the back of the British settlements, bounded by a line which we have now agreed upon*, and do hereby establish *as the* BOUNDARY *between us and the British colonies in America; beginning at the mouth of the Cherokee or Hogohege river, where it empties into the river Ohio; and running from thence upwards along the south side of the said river to Kitanning, which is above Fort Pitt; from thence by a direct line to the nearest fork of the west branch of Susquehannah; thence through the Allegany mountains, along the south side of the said west branch, till it comes opposite to the mouth of a creek called Tiadaghton; thence across the west branch, and along the south side of that creek, and along the north side of Burnet's hills, to a creek called Awandae; thence down the same to the east branch of Susquehannah, and across the same, and up the east side of that river to Owegy; from thence east to Delawore river, and up that river to opposite to where Tianaderha falls into Susquehannah; thence to Tianaderha, and up the west side thereof, and the west side of its west branch to the head thereof; and thence by a direct line to Canada creek, where it empties into Wood creek, at the west end of the carrying place beyond Fort Stanwix, and extending eastward from every part of the said line, as far as the lands formerly purchased, so as to comprehend the whole of the lands between the said line and the purchased lands or settlements, except what is within the province of Pennsylvania;* together with all the hereditaments and appurtenances to the same, belonging or appertaining, in the fullest and most ample manner; and all the estate, right, title, interest, property, possession, benefit, claim and demand, either in law or equity, of each and every of us, of, in, or to the same, or any part thereof; To have and to hold the whole lands and premises hereby granted, bargained, sold, released, and confirmed, as aforesaid, with the hereditaments and appurtenances thereunto belonging; under the reservations made in the treaty, unto our said sovereign lord King George the Third, his heirs and successors, to and for his and their own proper use and behoof, for ever.

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In witness whereof, we, the chiefs of the confederacy, have hereunto set our marks and seals, at Fort Stanwix, the fifth day of November, one thousand seven hundred and sixty-eight, in the ninth year of his majesty's reign.

ABRAHAM, or *Tyahanesera*, } The mark of his nation. Chief of [L. S.] the Mohawks. The Steel.

HENDRICK, or *Saquarisera*, } Chief of [L. S.] the Tuscaroras. The Stone.

CONAHQUIESO, } Chief of [L. S.] the Oneidas. The Cross.

BUNT, or *Chenaugheata*, } Chief of [L. S.] the Onondagas. The Mountain.

TAGAAIA, } Chief of [L. S.] the Cayugas. The Pipe.

GAUSTARAX, } Chief of [L. S.] the Senecas. The High Hill.

Signed, sealed and delivered in the presence of
WILLIAM FRANKLIN, Governor of New Jersey;
FREDERICK SMYTH, Chief Justice of New Jersey;
THOMAS WALKER, Commissioner for Virginia;
RICHARD PETERS, JAMES TILGHMAN, } of the Council of Pennsylvania.

At a congress held at Fort Stanwix, with the several nations of Indians, Saturday, November the 5th, 1768; present as at the last meeting:

The *deed* to *his majesty*,—one to *the proprietors of Pennsylvania*,—and the *one to the traders*, being then laid on the table, *were executed in the presence of the* Governor of New Jersey, the commissioners of Virginia and Pennsylvania, and the rest of the gentlemen present.* After which, the chiefs of each nation received *the cash*, which was piled on the table for that purpose; and then proceeded to divide the goods amongst their people, which occupied the remainder of the day.

At a congress held at the German Flats, in the province of New York, with the Six United Nations of Indians, in July, 1770, by Sir William Johnson, baronet, his majesty's sole agent and superintendent of Indian affairs, &c., &c., Sir William Johnson spoke to them as follows:

Brothers—The King, my master, having received *all* the papers and proceedings relative to the great treaty at Fort Stanwix, together with the deed of cession which you then executed to him, has laid them before his council of great men; and, after considering the whole of them, has signified to me, (which I hope will be deemed a farther instance of his paternal goodness,)

* The deed to the *traders* had been executed *two days before;* but Sir William Johnson and the commissioners recommended that the *chiefs* of the Six Nations, who had signed it, should carry it into congress, and publicly acknowledge the execution of it, at the same time they executed the grant to the King of England, and the proprietors of Pennsylvania; which was accordingly done.

N. B. The grant to Mr. Croghan was subscribed by Mr. Walker, commissioner for Virginia, and the same persons in authority, who were witnesses to the above deed to the King, and the one to the proprietors of Indiana.

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that he did not require the land so far to the *southward*, as the *Cherokee* river, if it was of the least inconvenience to his children, whose interest he has so much at heart. He has, at length, in compliance with your own desires, as transmitted by me, and the public grant that you made, impowered me to *ratify* the same, by letters I have received from the lord (the Earl of Hillsborough) who is one of his majesty's secretaries, [*holding his lordship's letter in his hand,*] which I now propose to do. You all know the deed of cession, of which this [*showing a copy*] is a true copy; you all know that it was executed in a public meeting of the greatest number of Indians that has ever been assembled within the time of our remembrance, and that *all who had any pretensions* were duly summoned to it.

To which the Six Nations answered:

Brother Goragh Warraighiyagey—We are now met together in full council, to answer you concerning what you last spoke to us, about the King's *having received our deed, and the proceedings at Fort Stanwix, with his ratification of the same*, with which we are highly pleased. When we met you to so great a number, in so public a manner, at Fort Stanwix, *we should hardly have acted as we did, unless we had been possessed of a* FULL RIGHT SO TO DO. We now desire that you may assure the King, that it was our property we justly disposed of, and that we had full authority so to do.

ORDER OF VIRGINIA COUNCIL.

In Council, Williamsburg, August 23d, 1776.

Mr. George Rogers Clark having represented to this Board the defenceless state of the inhabitants of Kentucki; and having requested, on their behalf, that they should be supplied with five hundred weight of gun-powder;

Ordered, therefore, that the said quantity of gun-powder be forthwith sent to Pittsburgh, and delivered to the commanding officer at that station, by him to be safely kept, and delivered to the said George Rogers Clark, or his order, for the use of the said inhabitants of Kentucki. JOHN PAGE, Pres't.

Test, ARCH'D. BLAIR, Cl. Coun.

INSTRUCTIONS TO GENERAL CLARK.

Lieutenant Colonel George Rogers Clark:

You are to proceed, without loss of time, to inlist seven companies of men, officered in the usual manner, to act as militia, under your orders. They are to proceed to Kentucky, and there to obey such orders and directions as you shall give them, for three months after their arrival at that place; but to receive pay, &c., in case they remain on duty a longer time.

You are empowered to raise these men in any county in the Commonwealth; and the county lieutenants respectively are requested to give you all possible assistance in that business.

Given under my hand at Williamsburg, January 2d, 1778.

P. HENRY.

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VIRGINIA: Sct. IN COUNCIL, WILLIAMSBURG, Jan. 2d, 1778.

Lieutenant Colonel George Rogers Clark:

You are to proceed, with all convenient speed, to raise seven companies of soldiers to consist of fifty men each, officered in the usual manner, and armed most properly for the enterprize; and with this force attack the British post at Kaskasky.

It is conjectured that there are many pieces of cannon and military stores, to considerable amount, at that place; the taking and preservation of which would be a valuable acquisition to the State. If you are so fortunate, therefore, as to succeed in your expedition, you will take every possible measure to secure the artillery and stores, and whatever may advantage the State.

For the transportation of the troops, provisions, &c., down the Ohio, you are to apply to the commanding officer at Fort Pitt, for boats; and during the whole transaction you are to take especial care to keep the true destination of your force secret: its success depends upon this. Orders are therefore given to Captain Smith to secure the two men from Kaskasky. Similar conduct will be proper in similar cases.

It is earnestly desired that you show humanity to such British subjects and other persons as fall in your hands. If the white inhabitants at that post and the neighborhood, will give undoubted evidence of their attachment to this State, (for it is certain they live within its limits,) by taking the test prescribed by law, and by every other way and means in their power, let them be treated as fellow-citizens, and their persons and property duly secured. Assistance and protection against all enemies whatever, shall be afforded them; and the Commonwealth of Virginia is pledged to accomplish it. But if these people will not accede to these reasonable demands, they must feel the miseries of war, under the direction of that humanity that has hitherto distinguished Americans, and which it is expected you will ever consider as the rule of your conduct, and from which you are in no instance to depart.

The corps you are to command are to receive the pay and allowance of militia, and to act under the laws and regulations of this State, now in force, as militia. The inhabitants at this post will be informed by you, that in case they accede to the offers of becoming citizens of this Commonwealth, a proper garrison will be maintained among them, and every attention bestowed to render their commerce beneficial; the fairest prospects being opened to the dominions of both France and Spain.

It is in contemplation to establish a post near the mouth of Ohio. Cannon will be wanted to fortify it. Part of those at Kaskasky will be easily brought thither, or otherwise secured, as circumstances will make necessary.

You are to apply to General Hand for powder and lead necessary for this expedition. If he can't supply it, the person who has that which Captain Lynn brought from Orleans can. Lead was sent to Hampshire by my orders, and that may be delivered you. Wishing you success, I am, sir,

Your h'ble serv't. P. HENRY.

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In the House of Delegates,
Monday, the 23d Nov. 1778.

Whereas, authentic information has been received, that Lieutenant Colonel George Rogers Clark, with a body of Virginia militia, has reduced the British posts in the western part of this Commonwealth, on the river Mississippi, and its branches, whereby great advantage may accrue to the common cause of America, as well as to this Commonwealth in particular.

Resolved, That the thanks of this House are justly due to the said Colonel Clark and the brave officers and men under his command, for their extraordinary resolution and perseverance, in so hazardous an enterprize, and for the important services thereby rendered their country.

Test, E. RANDOLPH, C. H. D.

Williamsburg, in Council, Sept 4th, 1779.

Lieutenant Colonel George Rogers Clark:

SIR:

I have the honor to inform you, that by Captain Rogers I have sent the sword, which was purchased by the Governor, to be presented to you by order of the General Assembly, as a proof of their approbation of your great and good conduct, and gallant behaviur. I heartily wish a better could have been procured, but it was thought the best that could be purchased, and was bought of a gentleman who had used it but a little, and judged it to be elegant and costly. I sincerely congratulate you on your successes, and wish you a continuation of them, and a happy return to your friends and country; and am, sir, with great regard, your most ob't serv't. JOHN PAGE, Lt. Gov.

GOVERNOR BENJAMIN HARRISON'S LETTER TO GENERAL GEORGE R. CLARK.

In Council, July 2d, 1783.

SIR:

The conclusion of the war, and the distressed situation of the State, with respect to its finances, call on us to adopt the most prudent economy. It is for this reason alone I have come to a determination to give over all thoughts for the present of carrying on an offensive war against the Indians, which you will easily perceive will render the services of a general officer in that quarter unnecessary, and will therefore consider yourself as out of command; but before I take leave of you, I feel myself called upon in the most forcible manner to return you my thanks, and those of my Council, for the very great and singular services you have rendered your country, in wresting so great and valuable a territory out of the hands of the British enemy, repelling the attacks of their savage allies, and carrying on successful war in the heart of their country. This tribute of praise and thanks so justly due, I am happy to communicate to you as the united voice of the Executive. I am, with respect, sir, yours &c. BENJAMIN HARRISON.

THE END.

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